

**Low Income Public Housing (LIPH)  
Admissions & Continued  
Occupancy Policy**

July 1, 2024

Grand Rapids Housing Commission

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## **INTRODUCTION**

### **MOVING TO WORK (MTW DEMONSTRATION PROGRAM AS APPLICABLE TO THE ADMISSIONS AND CONTINUED OCCUPANCY PLAN**

The Moving to Work (MTW) Demonstration program was originally authorized by Section 204 of the Omnibus Consolidation Rescission and Appropriations Act of 1996 (Public Law 104-134, 110 Stat 1321), dated April 26, 1996. This demonstration program offers public housing authorities the opportunity to design and test innovative, locally designed housing and self-sufficiency strategies for low-income families by allowing exemptions from certain public housing rules. Section 239 of the Fiscal year 2016 Appropriations Act, P.L 114-113 (2016 MTW Statute) authorized HUD to expand the MTW Demonstration Program by designating an additional 100 PHAs over seven years (here after, the “MTW Expansion”). The 2016 MTW Expansion Statute provides that PHAs selected as part of the MTW Expansion must be high performers, meet certain size and Rental Assistance Demonstration (RAD) requirements, and represent geographic diversity across the country. All PHAs selected for the MTW Expansion must follow the selection notice for their applicable cohort. The Grand Rapids Housing Commission (GRHC) was selected to participate in the Moving to Work (MTW) Demonstration program under the Asset Building Cohort in 2022 as one of 129 PHAs in the nation out of approximately 3,300. Asset building is defined as activities that encourage the growth of savings accounts and/or aim to build credit for assisted household. GRHC executed its MTW agreement with HUD November 2022 with an effective date of December 1, 2022. A copy of GRHC’s MTW Supplement Plan (as part of the Agency’s Annual Plan) can be found on the GRHC website at [www.grhousing.org](http://www.grhousing.org) or at the main office at 1420 Fuller Avenue, SE, Grand Rapids, MI 49507. The MTW flexibilities authorized by HUD for the GRHC are incorporated within this ACOP and can easily be identified in grey boxes and identified as MTW policy. It is important to note when reviewing the ACOP, MTW policies and procedures may conflict with HUD regulatory requirements as permitted by the MTW Supplement and HUD approval. Where no MTW policy or procedure exists, then standard LIPH rules and regulations apply.

### **ABOUT THE REFERENCES CITED IN THE GRAND RAPIDS HOUSING COMMISSIONS’S ACOP FOR POLICIES IN THE ACOP**

The authority for GRHC policies is derived from many sources. Primary among these sources are federal statutes, federal regulations, and guidance issued by HUD. State law also directs GRHC policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy if it does not conflict with federal requirements or prohibitions.

### **HUD**

HUD provides the primary source of GRHC policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and current HUD handbooks is mandatory. HUD also provides guidance to the GRHC through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing GRHC policy on HUD guidance is optional, as long as the GRHC policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, GRHC reliance on HUD guidance provides the GRHC with a “safe harbor.” Material posted on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application

of federal regulations in various aspects of the program.

### **State Law**

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

### **Industry Practice**

Where no law or HUD authority exists on a particular subject, industry practice may support GRHC policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of PHAs.

### **RESOURCES CITED IN THE ACOP**

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

### **Public Housing Occupancy Guidebook**

In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements*, p. 11).

On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to site the Public Housing Occupancy Guidebook.

### **HUD HCV Guidebook**

*Although the LIPH ACOP is not regulated by the Housing Choice Vouchers (HCV), the GRHC will utilize the HUD HCV guidebook when LIPH Rules and regulations do not provide guidance on certain issued as safe harbor.*

In November 2019 HUD began issuing a new version of the HCV Guidebook chapter-by-chapter. Unlike the previous version of the HCV Guidebook in which chapters were numbered, the new version of the guidebook includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the GRHC policy cites both versions of the guidebook.

Therefore, where the HCV Guidebook is cited in the GRHC policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *HCV GB* with a chapter/page reference (example: HCV GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New HCV GB* with a chapter title and page reference (example: New HCV GB, *Payment Standards*, p. 11).

### **MTW Operations Notice**

This Moving to Work (MTW) Operations Notice (MTW Operations Notice) establishes requirements for the implementation and continued operation of the expansion of the MTW demonstration program pursuant to Section 239 of the Fiscal Year 2016 Appropriations Act, P.L. 114-113 (2016 MTW Expansion Statute). The MTW Operations Notice applies to all public housing agencies (PHAs) designated as MTW pursuant to the 2016 MTW Expansion Statute and to any previously designated MTW agency that elects to operate under the terms of this notice, collectively referred to in this MTW Operations Notice as an “MTW agency.”

The MTW demonstration program allows PHAs to design and test innovative, locally- designed housing and self-sufficiency strategies for low-income families by permitting PHAs to use assistance received under Sections 8 and 9 of the Housing Act of 1937, as amended, 42 U.S.C. § 1437 et seq. (1937 Act) more flexibly and as approved by HUD, with certain exemptions from existing public housing and HCV program requirements.

Through the MTW Amendment to the Annual Contributions Contract(s) (ACC)<sup>1</sup>, an MTW agency agrees to comply with the program requirements and terms and conditions detailed in the MTW Operations Notice for the term of the MTW agency’s participation in the MTW demonstration. Unless otherwise explicitly provided in the MTW Operations Notice, an MTW agency’s MTW program applies to all the MTW agency’s public housing units (including MTW agency-owned properties and units comprising a part of mixed-income, mixed finance communities), tenant-based HCV assistance, project-based HCV assistance under Section 8(o) of the 1937 Act, and homeownership units developed using Section 8(y) HCV assistance of the 1937 Act.

### **Abbreviations**

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

| <b>Abbreviation</b> | <b>Document</b>  |
|---------------------|--|
| CFR                 | Code of Federal Regulations  |
| PIH OCC GB          | Public Housing Occupancy Guidebook   |
| New PH OCC GB       | Public Housing Occupancy Guidebook, Various dates of release                     |
| HUD-50058 IB        | HUD-50058 Instruction Booklet  |
| RHIIP FAQs          | Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions. |
| VG                  | PIH Notice 2004-01 Verification Guidance, March 9, 2004.                         |
| HCV GB              | Housing Choice Voucher Guidebook   |

## Resources and Where to Find Them

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website:

[https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips)

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

| Document and Location   |
|---|
| Code of Federal Regulations<br><a href="https://www.ecfr.gov/">https://www.ecfr.gov/</a>  |
| Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data<br><a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a>  |
| Executive Order 11063<br><a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a>  |
| Federal Register<br><a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a>   |
| HOTMA Final Rule<br><a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a> |
| HOTMA Implementation Notice, PIH 2023-27<br><a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a>   |
| Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004<br><a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a>  |
| Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007<br><a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a>   |
| Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice<br><a href="https://www.hud.gov/sites/documents/DOC_8993.PDF">https://www.hud.gov/sites/documents/DOC_8993.PDF</a>  |
| Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System<br><a href="https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF">https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</a>  |
| VAWA Final Rule<br><a href="http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf">http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf</a>  |
| Move to Work Operations Manual Notice<br><a href="#">Final Ops Notice Part VI for web 8.15.20.docx (hud.gov)</a>  |
| PUBLIC HOUSING OCCUPANCY GUIDEBOOK<br><a href="https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mod/guidebook">https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mod/guidebook</a>   |

## **CHAPTER 1 INTRODUCTION**

### **OVERVIEW OF THE PROGRAM AND PLAN**

The Grand Rapids Housing Commission (GRHC) receives funding for the Public Housing program from the Department of Housing and Urban Development (HUD). The GRHC is not a federal department or agency. The Commission is a quasi-governmental entity, created and authorized by state law to develop and operate housing and housing programs for low-income families. The Grand Rapids Housing Commission must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operations.

This chapter contains information about the GRHC and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of the Admission and Continued Occupancy Policy (ACOP) and guide.

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

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

Part III: The Admissions and Continued Occupancy Policy (ACOP). This part discusses the purpose and organization of the ACOP and its revision schedule. The instructions also contain guidance for each chapter and how to use the document within your agency.

## **PART I: THE GRHC**

### **1-I.A. OVERVIEW**

This Admissions and Continued Occupancy Policy defines the Grand Rapids Housing Commission's policies for the operation for the Public Housing Program, incorporating Federal, State and local law. If there is any conflict between this policy and laws or regulations, the laws and regulations will prevail.

### **1-I.B. ORGANIZATION AND STRUCTURE OF THE GRHC**

The Public Housing Program is funded by the federal government and administered by the Grand Rapids Housing Commission (GRHC) for the jurisdiction of the City Grand Rapids/County of Kent. The officials of the GRHC are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the GRHC conducts business, ensuring that policies are followed by GRHC staff and ensuring that the GRHC is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability. Formal actions of the GRHC are taken through written resolutions, adopted by the board of commissioners, and entered into the official records of the GRHC. The principal staff member of the GRHC is the executive director (ED), hired and appointed by the board of commissioners. The executive director is directly responsible for carrying out the policies established by the board and is delegated the responsibility for hiring, training and supervising the GRHC staff in order to manage the day-to-day operations of the GRHC. The executive director is responsible for ensuring compliance with federal and state laws and directives for the programs managed. In addition, the executive director's duties include budgeting and financial planning for the agency.

### **1-I.C. GRHC MISSION STATEMENT**

The Grand Rapids Housing Commission provides housing assistance and affordable housing opportunities to lower-income families, people with disabilities and senior citizens in a manner that is fiscally sound and in ways that support families, neighborhoods and economic self-sufficiency.

### **1-I.D. THE GRHC'S COMMITMENT TO ETHICS AND SERVICE**

As a public service agency, the GRHC is committed to providing excellent service to LIPH program participants, owners, and to the community. The GRHC's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing inspection standards – for very low- income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self- sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational, and other human service's needs.
- Promote fair housing and the equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.

- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owners, and community support in accomplishing the GRHC's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the GRHC's support systems and a high level of commitment to our employees and their development. The GRHC will make every effort to keep program participants informed of LIPH program rules and regulations, and to advise participants of how the program rules affect them.

The GRHC also abides by the Conflict-of-Interest Policies and Procedures adopted by the board and conducts annual ethics training.



## **PART II: THE PUBLIC HOUSING PROGRAM**

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

This part contains information about the public housing program operation, roles and responsibilities, and partnerships. The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents. Public housing is the oldest and, until recently, largest housing subsidy program in the country.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

### **1-II.B. PUBLIC HOUSING PROGRAM BASICS**

This section provides information on the basics of program operation. It is intended to assist the audience in understanding the program. Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single-family houses to high rise apartments for elderly families. There are approximately 970,000 households living in public housing units, managed by some 3,200 HAs. The U.S. Department of Housing and Urban Development (HUD) administers Federal aid to local housing agencies (HAs) that manage the housing for low-income residents at rents they can afford. HUD furnishes technical and professional assistance in planning, developing, and managing these developments. Public housing is limited to low-income families and individuals. An HA determines your eligibility based on 1) annual gross income; 2) whether you qualify as elderly, a person with a disability, or as a family; and 3) U.S. citizenship or eligible immigration status. If you are eligible, the HA will check your references to make sure you and your family will be good tenants. HAs will deny admission to any applicant whose habits and practices may be expected to have a detrimental effect on other tenants or on the project's environment. HAs use income limits developed by HUD. HUD sets the lower income limits at 80% and very low-income limits at 50% of the median income for the county or metropolitan area in which you choose to live. Income limits vary from area to area so you may be eligible at one HA but not at another. The HA serving your community can provide you with the income levels for your area and family size, or you can also find the income limits here on the internet.

### **1-II.C. THE PUBLIC HOUSING PARTNERSHIPS**

Each year, Congress appropriates funding to HUD who then distributes the funding to local housing agencies to administer the programs through an Annual Contributions Contract. The GRHC administers the programs in accordance with federal, state and local laws and program regulations. GRHC enters into lease agreements with households who need assistance through the programs it administers. The GRHC also partners with other organizations to provide services and support for the families it serves that promote economic self-sufficiency and ensure independent living.

### **What Does HUD Do?**

HUD has the following major responsibilities:

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

### **What Does the GRHC Do?**

The GRHC administers the LIPH program under contract with HUD and has the following major responsibilities:

- Establish local policies to administer the program;
- Review applications from interested applicants to determine whether they are eligible for the program;
- Maintain a waiting list and select families for admission;
- Leases units to eligible families;
- Recertify families for continued eligibility under the program;
- Provide families and other partners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding,
- Abide by the GRHC Admissions and Continued Occupancy plan, and other applicable federal, state and local laws

### **What Does the Family Do?**

The family has the following responsibilities:

- Provide the GRHC with complete and accurate information as determined by the PHA to be necessary for administration of the program;
- Attend all appointments scheduled by the GRHC;
- Allow the GRHC to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing inspection standards caused by the family;
- Comply with the terms of the leaser;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the GRHC before moving or terminating the lease;
- Use the assisted unit only for residence and as the sole residence of the family.
- Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the GRHC of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs

### **1-II.D. APPLICABLE REGULATIONS**

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination

- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 960: Admission to, and Occupancy of, Public Housing

## **PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

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

The Admissions and Continued Occupancy Plan (ACOP) is required by HUD. The purpose of the ACOP is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the GRHC's agency plan. This ACOP is a supporting document to the PHA agency plan, and is available for public review as required by CFR 24 Part 903. The GRHC is responsible for complying with all changes in HUD regulations pertaining to the public housing program. If such changes conflict with this plan, HUD regulations will have precedence. Administration of the public housing program and the functions and responsibilities of the GRHC staff shall be in compliance with the GRHC policies and HUD regulations as well as all federal, state and local fair housing laws and regulations. HUD makes a distinction between:

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

HUD expects the GRHC to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the GRHC discretion. The ACOP is the foundation of those policies and procedures. HUD's directions require the GRHC to make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants. Creating policies based upon HUD guidance is not mandatory but provides the GRHC with a "safe harbor."

### **1-III.B. CONTENTS OF THE POLICY (24CFR 960)**

The HUD regulations at 24 CFR 960 define the policies that must be included in the ACOP. They are as follows:

1. Subpart A - Applicability, Definitions, Equal Opportunity Requirements (§§ 960.101 - 960.103)
2. Subpart B - Admission (§§ 960.200 - 960.208)
3. Subpart C - Rent and Reexamination (§§ 960.253 - 960.261)
4. Subpart D - Preference for Elderly Families and Disabled Families in Mixed Population Projects (§§ 960.401 - 960.407)
5. Subpart E - Occupancy by Over-Income Families or Police Officers (§§ 960.503 - 960.505)
6. Subpart F - When Resident Must Perform Community Service Activities or Self-Sufficiency Work Activities (§§ 960.600 - 960.609)
7. Subpart G - Pet Ownership in Public Housing (§§ 960.701 - 960.707)

### **1-III.C. UPDATING AND REVISING THE POLICY**

The GRHC will review and update the ACOP as needed to reflect changes in regulations, GRHC operations, or when needed to ensure staff consistency in operation.

## **Chapter 2**

### **FAIR HOUSING AND EQUAL OPPORTUNITY**

#### **INTRODUCTION**

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

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

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

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

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

## **PART I: NONDISCRIMINATION**

### **2-I.A. OVERVIEW**

This section provides the list of applicable federal nondiscrimination laws. The GRHC must also fully comply with any state and local laws, ordinances and regulations governing fair housing and equal opportunity, protecting the rights of tenants, applicants or staff.

### **2-I.B. NONDISCRIMINATION**

The purpose of this policy is to ensure the GRHC treats applicants and residents fairly and consistently, and especially avoids discriminatory practices based on the federally protected classes of race, color, sex, religion, familial status, age, disability, or national origin, as well as additional protections afforded under the regulations and executive orders regarding gender identity, sexual orientation, and marital status. This obligation is central to HUD and the GRHC. The City of Grand Rapids in Section 9.955 includes Source of Income as a protected class in its jurisdiction. The GRHC will require compliance, where applicable.

#### **Discrimination Complaints**

While Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule, we recommend establishing a policy for responding to all discrimination complaints. Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the GRHC either orally or in writing. Within 15 calendar days of receiving the complaint, the GRHC will provide a written notice to those alleged to have violated the rule. The GRHC will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The GRHC will attempt to remedy discrimination complaints made against the GRHC and will investigate all allegations of discrimination. Within 15 calendar days following the conclusion of the GRHC's investigation, the GRHC will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted. The GRHC will keep a record of all complaints, investigations, notices, and corrective actions.

## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973 and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004. According to 24 CFR Parts 1, 8 and 100, persons with disabilities must be afforded opportunities equal to those afforded other. To carry this out, the GRHC should inquire of all applicants and resident families whether anyone in the family needs accommodation. There is no HUD requirement as to how, specifically, the GRHC must notify families of their right to request reasonable accommodation. It is in the best interests of applicants, residents and the GRHC, however, for the GRHC to inform applicants and resident families in key documents, such as intake, reexamination, and notices of adverse action, of their right to make such requests. The GRHC will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the GRHC, by including the following language: *“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the Housing Commission.”* The Asset Manager will be the contact person for requests related to reasonable accommodations or persons for disability. The Asset Manager can be reached at 616-235-2600, Ext 1222.

### **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION**

A person with a disability may require special accommodation to have equal access to the public housing program. The types of reasonable accommodations the GRHC can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

### **2-II.C. REQUEST FOR AN ACCOMMODATION**

The Joint Statement of the Departments of HUD and Justice: Reasonable Accommodation under the Fair Housing Act, issued May 17, 2004, clarified that, while it is usually helpful to both the requester and the GRHC to have the request for a reasonable accommodation made in writing, the GRHC must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the GRHC’s preferred forms or procedures for making such requests. The GRHC will encourage the family to make its request in writing using a reasonable accommodation request form. However, the GRHC will consider the accommodation any time the family indicates that accommodation is needed whether a formal written request is submitted.

### **2-II.D. VERIFICATION OF DISABILITY**

Before providing accommodation, the GRHC must determine that the person meets the applicable definition of a person with a disability, and that the accommodation will enhance the family’s access to the GRHC’s programs and services. Verification policies are contained in Chapter 7.

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

After a request for accommodation is presented, the GRHC will respond, in writing, within 15 calendar days. If the GRHC denies a request for an accommodation because there is no

relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the GRHC's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14). If the GRHC denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the GRHC's operations), the GRHC will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden. If the GRHC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the GRHC will notify the family, in writing, of its determination within 15 calendar days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the GRHC's decision through an informal hearing (if applicable) or the grievance process (see Chapter

## **2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6]**

24 CFR 8.6(a)(1) states that the GRHC shall take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public and 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. 24 CFR 8.6(a)(2) states that where a recipient of federal funds communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective communication devices shall be used. To meet the needs of people with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available. To meet the needs of people with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with GRHC staff, one-on-one assistance will be provided upon request. Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative or advocate, named by the applicant) to receive, interpret, and explain housing materials and be present at all meetings.

## **2-II.G. PHYSICAL ACCESSIBILITY**

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

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

GRHC will ensure the design, construction, or alteration of GRHC facilities conform to the Uniform Federal Accessibility Standards (UFAS). Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the LIPH program. In general, GRHC will permit additional reasonable modifications to the unit at the family's expense, but the family will be required to restore the unit to its original state at the family's expense when they moves



**2-II.H. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 966.7]**

If the GRHC denies or terminates the assistance of a family that includes a person with a disability, GRHC may reconsider the decision based on a reasonable accommodation

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

### **2-III.A. OVERVIEW**

This part details the obligations of the GRHC to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*. Under Title VI of the Civil Rights Act, recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP). Executive Order 13166 requires implementation of this provision of Title VI of the Civil Rights Act. On January 22, 2007, in the *Federal Register*, HUD published a notice explaining the responsibilities of recipients of federal financial assistance to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP).

### **2-III.B. ORAL INTERPRETATION**

Per the Federal Register and notice PIH 2020-3, issued November 20, 2020, the GRHC will implement the following:

- The GRHC will utilize a language line for telephone interpreter services.
- When exercising the option to conduct remote hearings, however, the GRHC will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.
- Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the GRHC.
- The GRHC, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the GRHC will not rely on the minor to serve as the interpreter.
- The GRHC will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.
- Where feasible and possible, according to its language assistance plan (LAP), the GRHC will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHA’s, and will standardize documents.

### **2-III.C. WRITTEN TRANSLATION**

Regarding written translation, the Federal Register notice of January 22, 2007, provides “safe harbor” guidance regarding written translation. “Safe harbor” means that if the GRHC provides written translations under this guidance, such action will be considered strong evidence of compliance. The GRHC will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the GRHC may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

### **2-III.D. IMPLEMENTATION PLAN**

The January 22, 2007, Federal Register notice states that after completing the four- factor analysis and deciding what language services are appropriate, the GRHC should develop an implementation plan. If it is determined that the GRHC serves very few LEP persons, and the GRHC has very limited resources, the GRHC will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process. If the GRHC determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

## **Chapter 3**

### **ELIGIBILITY**

#### **Introduction**

This chapter describes HUD and the GRHC policies for initial and ongoing eligibility and factors related to denial. This chapter contains three parts:

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

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

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the GRHC to deny admission, as well as the asset limitation for public housing.

## **PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS**

### **3-I.A. OVERVIEW**

This part contains HUD and GRHC definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

To be eligible for the LIPH program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify based on citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the PHA's collection and use of family information as provided for in provided consent forms.
  - Not currently receiving a duplicative subsidy.
  - Meet net asset and property ownership restriction requirements.
- The GRHC must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the GRHC.

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

### **3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, Notice PIH 2014-20, Notice PIH 2023-27, and FR Notice 2/14/23]**

This section of the ACOP clarifies the meaning of the term's *family* and *household* and presents HUD's definitions of the terms. The GRHC will use HUD'S definition of family and household.

*Family* as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, , displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together. Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family.

- *Gender Identity* means actual or perceived gender characteristics.
- *Sexual orientation* means homosexuality, heterosexuality, or bisexuality.
- *Household* as defined by HUD includes all 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.

The GRHC will also implement recommendations regarding households including full-time college students where there is no parents or guardian in the household as outlined in Notice PIH 2005-16. A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet

the needs of the family. Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes. A household consisting exclusively of one or more full-time college students does not qualify as a family unless each individual in the household satisfies the following conditions:

- The individual either must have established a household separate from his/her parents or legal guardians for at least one year prior to application for admission or must meet the U.S. Department of Education's definition of independent student.
- The individual must not be claimed as a dependent by his/her parents or legal guardians pursuant to Internal Revenue Service (IRS) regulations.

### **3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY**

#### **Family Breakup**

Except under the following conditions, the GRHC has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the GRHC must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-VII.D of this plan.)
- If a court determines the disposition of property between members of the assisted family, the GRHC is bound by the court's determination of which family members continue to receive assistance.

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

- If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit.
- If a court determines the disposition of property between members of an applicant or resident family, the GRHC will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the GRHC will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the GRHC will take into consideration the following factors:

1. The interest of any minor children, including custody arrangements;
2. The interest of any ill, elderly, or disabled family members;
3. The interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP;
4. Any possible risks to family members as a result of domestic violence or criminal activity; and (5) the recommendations of social service professionals.

#### **Remaining Member of a Tenant Family [24 CFR 5.403]**

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. If dependents are remaining members of a tenant family, and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

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

*Head of household* means the adult member of the family who has been designated by the family as the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all its responsibilities under the program, alone or in conjunction with a cohead or spouse. The family may designate any qualified family member as the head of household. The head of a household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

### **3-I.E. SPOUSE, COHEAD, AND OTHER ADULT**

This section specifies who may be considered a spouse, cohead, or other adult. A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13]. A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, significant others who are not marriage partners, or roommates. A minor who is emancipated under state law may be designated as a spouse. Minors who are emancipated under state law may be designated as a cohead.

### **3-I.F. DEPENDENTS AND MINORS[24 CFR 5.603]**

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

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

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or resident family 50 percent or more of the time. When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the GRHC will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

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

A *full-time student (FTS)* is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution. Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent allowance, and (2) the earned income of such an FTS is treated differently from the income of other family members.

### **3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]**

- An *elderly person* is a person who is at least 62 years of age.
- A *near-elderly person* is a person who is 50-61 years of age.

- An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person.

Identifying elderly families is important because elderly families qualify for the elderly family allowance.

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

This section provides the regulatory definitions for these two terms. These definitions are used for ensuring that persons with disabilities are not discriminated against based upon disability. Refer to Chapter 2, for more information on reasonable accommodation based upon a person's disability. Key aspects of the definitions are provided in this section of the ACOP. The full definitions are included in Exhibit 3-1 at the end of the chapter.

**Disabled Family:** A family whose head, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides. [24 CFR 5.403(b)] (Also see "person with disabilities.")

**Person with Disabilities:** A person who:

- A. Has a disability as defined in Section 223 of the Social Security Act, which states:
  1. "Inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months, or
  2. In the case of an individual who attained the age of 55 and is blind and unable by reason of such blindness to engage in substantial, gainful activity requiring skills or ability comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time."
- B. Is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment that:
  1. Is expected to be of long-continued and indefinite duration;
  2. Substantially impeded his/her ability to live independently; and
  3. Is of such a nature that such ability could be improved by more suitable housing conditions, or
- C. Has a developmental disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act, which states:
 

"Severe chronic disability that:

  1. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  2. Is manifested before the person attains age 22;
  3. Is likely to continue indefinitely;
  4. Results in substantial functional limitation in three or more of the following areas of major life activity; (1) self care, (2) receptive and responsive language, (3) learning, (4) mobility, (e) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and
  5. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment , or other services that are of lifelong or extended duration and are individually planned and coordinated."



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. (1937 Act)

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

A guest is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent. A resident family must notify the GRHC when overnight guests will be staying in the unit for more than three days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period. A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return. Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above. Former residents who have been evicted are not permitted as overnight guests. Guests who represent the public housing unit address as their residence address or address of record for receipt of benefits or any other purposes will be unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes a violation of the lease.

### **3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]**

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

### **3-I.L. ABSENT FAMILY MEMBERS**

#### **Definitions of Temporarily and Permanently Absent**

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

#### **Absent Students**

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

**Absences Due to Placement in Foster Care**

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

**Absent Head, Spouse, or Cohead**

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

**Individuals Confined for Medical Reasons**

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

**Return of Permanently Absent Family Members**

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

**3-I.M. LIVE-IN AIDE [24 CFR 5.403]**

A family may request GRHC approval for the household to include a live-in aide when necessary to provide supportive services for a family member who is elderly, near-elderly, or a person with disabilities. This section describes the conditions under which someone can be considered a live-in aide, and the situations in which the GRHC may deny or withdraw approval of a particular individual as a live-in aide. A family's request for a live-in aide may be made orally or in writing. The GRHC will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, the family may be required to submit a new, written request—subject to GRHC verification—at each annual reexamination. In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. The GRHC has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

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

Within 15 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, the GRHC will notify the family of its decision in writing.

## **PART II: BASIC ELIGIBILITY CRITERIA**

### **3-II.A. OVERVIEW**

This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

### **3-II.B. INCOME ELIGIBILITY AND TARGETING**

#### **Income Limits**

HUD establishes income limits for all areas of the country and publishes them annually in the Federal Register. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section. Definitions of the Income Limits [24 CFR 5.603(b)] unusually high or low family incomes.

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

This section provides the HUD definition of low-, very low-, and extremely low-income families.

- ***Low-income family:*** A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- ***Very low-income family:*** A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
- ***Extremely low-income family:*** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of local market conditions.

#### **Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]**

Income limits are used to determine eligibility for admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

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

At least 40 percent of the families admitted to the GRHC's public housing program during a GRHC fiscal year must be extremely low-income families and the possible use of housing choice voucher admissions in meeting HUD's requirement.

#### **GRHC MTW Flexibility**

The GRHC will ensure that at least 75 percent of households admitted during each fiscal year in the public housing, Housing Choice Voucher (HCV), and local, non-traditional programs—will be very low-income (50%).

### **3-II.C. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E] Overview**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals, or noncitizens that have eligible immigration status, and that prorated assistance is provided for "mixed families" containing both eligible and ineligible persons.

#### **Declaration [24 CFR 5.508]**

HUD requires that each family member declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status.

#### **U.S. Citizens and Nationals**

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

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

#### **Eligible Noncitizens**

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with GRHC efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance. Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

#### **Ineligible Noncitizens**

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

#### **Mixed Families**

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

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

No individual or family may be assisted prior to the affirmative establishment by the GRHC that the individual or at least one family member is eligible (a citizen, national, or eligible noncitizen). When the GRHC determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 15 calendar days of the determination. The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request a grievance hearing with the GRHC. The grievance hearing with the GRHC may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the grievance hearing process.

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

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

**3-II.D. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 calendar days of the effective date of the initial HAP contract. *Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.* In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants aged 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit. The GRHC must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

**3-II.E. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.232]**

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age to sign form HUD-9886-A, Authorization for the Release of Information/Privacy Act Notice, the form HUD-52675 Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent. The GRHC must deny admission to the program if any adult member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

The GRHC has established that a family's revocation of consent to allow the GRHC to access records from financial institutions will result in denial of admission.

### **3-II.F. EIV SYSTEM SEARCHES [EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]**

The GRHC will contact the PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The GRHC will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

#### **Existing Tenant Search**

Prior to admission to the program, the GRHC will search for all household members using the EIV Existing Tenant Search module. The GRHC will review the reports for any SSA matches involving another GRHC or a multifamily entity and follow up on any issues identified. The GRHC will provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the GRHC, and a match is identified at a multifamily property, the GRHC will contact the other PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The GRHC will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

#### **Income and Income Validation Tool (IVT) Reports**

For each new admission, the GRHC will review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The GRHC will print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates. The GRHC is required to run the Income and IVT Reports 120 days after admission.

#### **Debts Owed to GRHCs and Terminations**

The GRHC will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household. The GRHC will search the Debts Owed to any PHA and Termination module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the GRHC will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

## **PART III: DENIAL OF ADMISSION**

### **3-III.A. OVERVIEW**

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the GRHC to deny admission.

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

HUD requires the GRHC to deny assistance in the following cases:

- *Currently engaged in* is defined as any use of illegal drugs during the previous three years unless the applicant is currently enrolled in and fully compliant with treatment.
- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. The GRHC will not admit an otherwise-eligible family who was evicted from federally assisted housing within the past three (3) years for drug-related criminal activity unless the household member has completed a verifiable drug rehabilitation program or the person who committed the crime, is no longer living in the household.
- The GRHC determines that any household member is currently engaged in the use of illegal drugs.
- The GRHC has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. In determining reasonable cause, the GRHC will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record or records of arrest will not be used as the sole basis of determining reasonable cause. The GRHC will also consider evidence from treatment providers or community-based organizations providing services to household members.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

### **3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]**

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD). Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property. However, the real property restriction does not apply in the following circumstances:
- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;

- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the GRHC will comply with all the confidentiality requirements under VAWA. The GRHC will accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family; the GRHC defines *not sufficient for the size of the family* as being overcrowded based on the GRHC's occupancy standards in Chapter 5.
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the GRHC or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

### **3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION**

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

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

HUD permits, but does not require, the GRHC to deny assistance if the GRHC determines that any household member is currently engaged in or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity. The GRHC will deny assistance if any household member is currently engaged in or has engaged in any of the following criminal activities, within the past three years.

- Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
- Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity. ***Immediate vicinity*** means within a three-block radius of the premises; or
- Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the GRHC (including a GRHC employee or a GRHC contractor, subcontractor, or agent)



**Evidence of such criminal activity includes, but is not limited to:**

- Any conviction for drug-related or violent criminal activity within the past three (3) years.
- Records of arrests for drug-related or violent criminal activity within the past three (3) years, although a record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past three (3) years.

**GRHC Criminal Background Check Policy and Procedure**

To treat all applicants equally and fairly, and to uphold Fair Housing principles and ensuring equal access to housing, the Grand Rapids Housing Commission (GRHC) will conduct a limited criminal background screening on all individuals aged 18 and older in the family/household composition. Limited criminal background screening will consider:

1. Registered Sex Offender
2. Convicted of manufacturing methamphetamine.
3. Banned or Barred from GRHC Property
4. Felony or High Misdemeanors criminal convictions related to following offenses within the last three (3) years:
  - a. Property offenses
    - i. Property offenses include theft, burglary, vandalism, arson and other criminal damage to property
  - b. Major drug offenses
    - i. Major drug offenses include drug trafficking and the sale, smuggling, manufacture, or distribution of any controlled substance. This includes unspecified controlled substances. It also includes all 1st or 2nd degree-controlled substance offenses. Major drug offenses do not include simple possession of a controlled substance or drug paraphernalia, nor any past conduct that has since been decriminalized.
  - c. Fraud Offenses
    - i. Fraud offenses include identify theft, use of stolen checks, writing bad checks, counterfeiting, and forgery.
  - d. Major violent offenses against persons
    - i. Major violent offenses include assault, battery, and homicide.
  - e. Sex offenses
    - i. Sex offenses include rape, registration as a sexual offender, taking indecent liberties with a minor, pandering, sex trafficking, and sexual battery. Not included are victimless crimes such as prostitution or solicitation.

The GRHC's limited criminal background screening will not consider charges, expunged convictions, convictions reversed on appeal, vacated convictions, offenses where adjudication was withheld or deferred, pardoned convictions, and sealed juvenile records. It will not treat people differently based on whether the applicant is on probation or parole. If an applicant is identified as having a felony or high misdemeanor conviction in one of the specified categories

of offenses within the three (3) years prior to the application, a written notice will inform the applicant that covered criminal conduct was identified in the limited criminal background screening and will invite the applicant to provide additional information within 15 calendar days for consideration. The requested information could include for example, Letters from parole officers, caseworkers, counselors, family members, or community organizations commenting on the applicant's responsible conduct and rehabilitation efforts.

GRHC will consider all applicants equally and render decisions in a fair and consistent manner. The GRHC will consider the following factors:

- The facts or circumstances surrounding the criminal conduct
- The age of the applicant at the time of the occurrence of the criminal offense;
- Evidence of a good tenant or employment history before or after the conviction or conduct;
- Evidence of rehabilitation efforts;
- The time that has elapsed since the occurrence of the conduct;
- Any information about the applicant that indicates good conduct since the offense occurred;
- Whether the conduct/conviction arose from the applicant's status as a survivor of domestic violence, sexual assault, stalking, or dating violence;
- Whether the conduct/conviction arose from an applicant's disability, including mental illness; and
- Any other information related to whether the applicant's specific criminal history creates the potential that the property's current residents, employees, or property will be exposed to a heightened risk of crime.

If an applicant does not provide information for consideration within 15 calendar days of the notice, the GRHC will assess the applicant based on available information obtained during the applicant process including the criminal background. If the GRCH decides to reject an applicant, a denial letter will be sent to the applicant. The applicant will have 15 calendar days to request a review on the GRHC's determination. If no response is received, the applicant will be denied and removed from the waiting list.

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

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

The GRHC will deny assistance to an applicant family if:

- The family does not provide information that the GRHC or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the GRHC.
- Any family member has been evicted from federally assisted housing in the last three (3) years.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any federally assisted property in connection with Section 8 or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

- If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with the GRHC, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- A family member has engaged in or threatened violent or abusive behavior toward GRHC personnel.
  - Abusive or violent behavior towards GRHC personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

### **3-III.E. SCREENING**

#### **Screening for Eligibility**

This section describes the GRHC's obligation to conduct screening for eligibility related to criminal behavior, including the requirement to run criminal background checks to determine whether a family member is subject to a lifetime registration requirement in a state sex offender program. The GRHC will perform criminal background checks through a third-party entity for all adult household members. The GRHC will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

#### **Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]**

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

#### **Screening for Suitability as a Tenant**

The GRHC is responsible for the screening and selection of families to occupy public housing units and will consider the family's history with respect to the following factors:

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

### **Resources Used to Check Applicant Suitability**

To determine the suitability of applicants the GRHC will examine applicant history for the past three years. Such background checks will include meeting financial obligations, especially rent and Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

To determine the aforementioned items the GRHC will utilize landlords references, court records and/or credit reports. Applicants that have insufficient information (i.e., rental history) to make a suitability determination maybe requested to submit additional information supporting their ability to meet financial obligations and/or previous behavior.

### **3-III.F. CRITERIA FOR DECIDING TO DENY ADMISSION**

#### **Evidence**

The GRHC will use the preponderance of the evidence as the standard for making all admission decisions.

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

#### **Consideration of Circumstances**

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

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

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

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

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully the GRHC will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

### **Removal of a Family Member's Name from the Application**

The GRHC is authorized to deny admission unless the family agrees that a family member who participated in or was culpable for an offense will not live in the unit. As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to stay as a guest in the public housing unit. After admission to the program, the family must present evidence of the former family member's current address upon the GRHC request.

### **Reasonable Accommodation**

If the family includes a person with disabilities, the GRHC decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8. If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the GRHC will determine whether the behavior is related to the disability. If so, the GRHC will determine whether alternative measures are appropriate as a reasonable accommodation. The GRHC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

### **3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND HUMAN TRAFFICKING**

The Violence against Women Act (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibits the GRHC from denying admission to an applicant who otherwise qualifies for the public housing program on the basis or as a direct result of the fact that the applicant is a victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)]. This section describes how the GRHC will comply with this prohibition.

Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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

### **Notification**

VAWA expanded notification requirements to include the obligation for the GRHC to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and domestic violence certification form HUD-5382 at the time the applicant is denied. The GRHC acknowledges that a victim of domestic violence, dating violence, sexual assault, or

stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the GRHC's policies. While the GRHC is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform the GRHC that their status as a victim is directly related to the grounds for the denial. The GRHC will request that the applicant provide enough information to the GRHC to allow the GRHC to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The GRHC will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The GRHC will request in writing that an applicant wishing to claim this protection notify the GRHC within 15 calendar days.

## **Documentation**

### **Victim Documentation [24 CFR 5.2007]**

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the GRHC will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

### **Perpetrator Documentation**

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

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

## **3-III.H. NOTICE OF ELIGIBILITY OR DENIAL**

This section refers to Section 4-III.E. of the ACOP for policies regarding the GRHC's final determination of an applicant family's eligibility. Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B. If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the GRHC will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 15 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the GRHC to dispute the information within that 15 calendar day period, the GRHC will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

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|---|
| <p align="center"><b>EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES</b><br/><b>Person with Disabilities [24 CFR 5.403]</b></p> |
|---|

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

Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

**(A) In General**

The term “developmental disability” means a severe, chronic disability of an individual that:

- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) is manifested before the individual attains age 22;
- (iii) is likely to continue indefinitely;
- (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
- (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

**(B) Infants and Young Children**

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

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

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

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

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

**Individual with Handicaps [24 CFR 8.3]**

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

- (1) Physical or mental impairment includes:
  - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
  - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) *Is regarded as having an impairment* means:
  - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
  - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
  - (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.



## **Chapter 4**

### **APPLICATIONS, WAITING LIST AND TENANT SELECTION INTRODUCTION INTRODUCTION**

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

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

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

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

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

## **PART I: THE APPLICATION PROCESS.**

### **4-I.A. OVERVIEW**

This part provides an overview of the application process and discusses how applicants can obtain and submit applications. It also specifies how the GRHC will handle the applications it receives.

### **4-I.B. APPLYING FOR ASSISTANCE [PH Occ GB, p. 68]**

HUD gives the GRHC the latitude to determine how the GRHC will take applications, within certain constraints. HUD does not mandate the format or content of the application, or the method for processing applications. However, the GRHC must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the GRHC's application [Notice PIH 2009-36]. Depending upon the length of time between the date of application and the availability of housing, the GRHC may use a one- or two-step application process.

- A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all the information necessary to establish family eligibility and the amount of rent the family will pay.
- A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the GRHC initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all the information necessary to establish family eligibility and the amount of rent the family will pay when the family is selected from the waiting list.

Families may complete application forms online at [www.grhousing.org](http://www.grhousing.org). If an application is incomplete, the GRHC will notify the family of the additional information required.

### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS [24 CFR 8; PH Occ GB, p. 68]**

The GRHC will ensure that the application process is accessible to those people who might have difficulty complying with the standard GRHC application process. Those who need assistance in completing an application may call the GRHC to make special arrangements. A telecommunication device for the deaf (TDD) is available at 1-800-649-3777. Policies related to reasonable accommodations for persons with disabilities, and people with limited English proficiency are contained in Chapter 2.

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

The GRHC will review each completed application received and make a preliminary assessment of the family's eligibility. If the GRHC determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, the GRHC will send written notification of the ineligibility determination within 15 calendar days of receipt of the completed application. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14). The GRHC will send written notification of the preliminary eligibility determination within 15 calendar days of receiving a complete application. Applicants will be placed on the waiting list according to GRHC preference(s) and the date and time their complete application is received by the GRHC.

The GRHC will assign families on the waiting list according to the bedroom size for which a

family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to GRHC standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition. Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the GRHC will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

## **PART II: MANAGING THE WAITING LIST**

### **4-II.A. OVERVIEW**

This section presents the policies that govern how the GRHC's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the GRHC will use to keep the waiting list current.

### **4-II.B ORGANIZATION OF THE WAITING LIST [24 CFR 960.206]**

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

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount and source of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference(s), if any
- Race and ethnicity of the head of household

The GRHC will maintain a site-based waiting list system, with separate waiting lists for each of the sites within the GRHC portfolio. The GRHC will not merge the public housing waiting list with the waiting list for any other program the GRHC operates.

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

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

#### **Reopening the Waiting List**

The GRHC will announce the reopening of the waiting list at least 15 calendar days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received. The GRHC will give public notice by publishing the relevant information on the website at [www.grhousing.org](http://www.grhousing.org) and in suitable media outlets

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

The GRHCs will comply their marketing strategies, with Fair Housing Act requirements and with regulations to affirmatively further fair housing. Such outreach efforts are intended to overcome the effects of conditions which have resulted in, or may result in, limiting participation of persons because of their race, color, religion, sex, disability, familial status, or national origin. The GRHC will monitor the characteristics of the population being served and the characteristics of the population in the GRHC's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

While the family is on the waiting list, the family must inform the GRHC, within 15 calendar days of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing. Changes in an applicant's circumstances while on the waiting list may affect the family's

qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

#### **4-II.F. UPDATING THE WAITING LIST**

##### **Purging the Waiting List [24 CFR 960.202(a)(2)(iv)]**

The waiting list will be updated as needed to ensure that all applicant information is current and timely. To update the waiting list, the GRHC will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the GRHC has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list. If the family fails to respond within 15 calendar days, the family will be removed from the waiting list without further notice. If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 calendar days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice. When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the GRHC from making an eligibility determination; therefore, no informal hearing is required. If a family is removed from the waiting list for failure to respond, the GRHC may reinstate the family if the lack of response was due to GRHC error, or to circumstances beyond the family's control.

##### **Removal from the Waiting List**

The GRHC will remove an applicant from the waiting list upon request by the applicant family. In such cases no informal hearing is required. If the GRHC determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list. If a family is removed from the waiting list because the GRHC has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding the GRHC's decision (see Chapter 14) [24 CFR 960.208(a)].

## **PART III: TENANT SELECTION**

### **4-III.A. OVERVIEW**

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

### **4-III.B. SELECTION METHOD**

#### **Local Preferences [24 CFR 960.206]**

The GRHC will use the following local preferences:

1. The GRHC will offer a preference to residents that are being involuntarily displaced by natural disasters, government action, or other emergency circumstances that pose an immediate threat to the life, health or safety to the family.
2. The GRHC will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, or stalking who has either been referred by a partnering service agency or consortia or who is seeking an emergency transfer under VAWA from the GRHC's housing choice voucher program or other covered housing program operated by the GRHC. To verify that applicants qualify for the preference, the GRHC will follow documentation requirements as outline in 16-VII.D. The applicant must certify that the abuser will not reside with the applicant unless the GRHC gives prior written approval.
3. The GRHC will offer a preference to residents that are in the City of Grand Rapids, Michigan.
4. The GRHC will offer a preference to residents that are Veterans with honorable discharge status and/or a surviving spouse of a Veteran.
5. The GRHC will offer preference to participant households with more than one family member(s), selection will be based on date and time of application. For single person household(s), persons who are elderly, disabled or handicapped will be selected before other single person households.

Households requiring and accessible unit will be preference upon the availability of a accessible unit.

#### **Preference Scoring**

The GRHC will utilize an unweighted scoring system through its third-party software provider to score the preferences. Local preferences will be calculated using a system in which each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

Below is the scoring:

| <b>Preference Number</b> | <b>Scoring</b>   |
|--------------------------|--|
| 1 – 2                    | Assistance provided upon referral or proof of preference.<br>If no availability of a unit, a seven (7) will be provided. |
| 3                        | 3  |
| 4                        | 2  |
| 5                        | 1  |

The GRHC will work with the following partnering service agencies for referrals:

- Other PHAs
- Continuum of Care Coordinated Entry System
- Those Assisting Victims of Domestic Violence

### **Income Targeting Requirement [24 CFR 960.202(b)]**

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to the public housing program during the GRHC's fiscal year [24 CFR 960.202(b)(1)(i)]. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14].

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

#### **MTW Statutory Requirement**

The GRHC will ensure that at least 75 percent of the families assisted are very low-income families (50% of AMI), in each fiscal year, as defined in Section 3(b)(2) of the 1937 Act.

### **Mixed Population Developments [24 CFR 960.407]**

The GRHC will give preference to elderly families and [disabled families](#) equally in determining priority for admission to its mixed population developments.

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

The GRHC does not have designated housing.

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

In accordance with 24 CFR, Part 903, Subpart A, the Grand Rapids Housing Commission has no general occupancy (family) public housing developments covered by the deconcentration rule.

### **Order of Selection [24 CFR 960.206(e)]**

Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the GRHC. When selecting applicants from the waiting list, the GRHC will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The GRHC will offer the unit to the highest-ranking applicant who qualifies for that unit size or type, or that requires the accessibility features. By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status. Factors such as income mixing and income targeting will also be considered in accordance with HUD requirements and GRHC policy.

## **4-III.C. NOTIFICATION OF SELECTION**

The GRHC will notify the family by first class mail/email/phone when it is selected from the waiting list. The notification will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable

documentation

- Documents that must be provided at the interview to document eligibility for a preference, if applicable
- Other documents and information that should be brought to the interview

If a notification letter is returned to the GRHC with no forwarding address, the GRHC will attempt if available, to contact the family by phone or email. If no contact is made, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the GRHC from making an eligibility determination; therefore no informal hearing will be offered.

#### **4-III.D. THE APPLICATION INTERVIEW**

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

All adult family members must attend the eligibility interview. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the GRHC. The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the GRHC will allow the family to retain its place on the waiting list for 90 calendar days. If not all household members have disclosed their SSNs at the next time a unit becomes available, the GRHC will offer a unit to the next eligible applicant family on the waiting list. If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the GRHC will proceed with the interview. If the GRHC determines the family is not eligible for the preference, the interview will not proceed, and the family will be placed back on the waiting list according to the date and time of their application. The family must provide the information necessary to establish the family's eligibility, including suitability, and determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the GRHC will provide the family with a written list of items that must be submitted. Any required documents or information that the family is unable to provide at the interview must be provided within 15 calendar days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3). An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Interviews will be conducted in English. For limited English proficient (LEP) applicants, the GRHC will provide translation services in accordance with the GRHC's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the GRHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the GRHC will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without GRHC approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no



longer interested, and their application will be made inactive. Such failure to act on the part of the applicant prevents the GRHC from making an eligibility determination, therefore the GRHC will not offer an informal hearing.

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

The GRHC will notify a family in writing of their eligibility within 15 calendar days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined. If the GRHC determines that the family is ineligible, the GRHC will send written notification of the ineligibility determination within 15 calendar days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing (see Chapter 14). If an applicant does not provide information for consideration within 15 calendar days of the notice, the GRHC will assess the applicant based on available information obtained during the applicant process including the criminal background. If the GRHC decides to reject an applicant, a denial letter will be sent to the applicant. The applicant will have 15 calendar days to request a review of the GRHC's determination. If no response is received, the applicant will be denied and removed from the waiting list. The GRHC will expedite the administrative process for determining eligibility to the extent possible for applicants who are admitted to the public housing program because of an emergency transfer from another GRHC program.

## **Chapter 5**

### **OCCUPANCY STANDARDS AND UNIT OFFERS**

#### **INTRODUCTION**

The GRHC must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families. This chapter contains policies for assigning unit size and making unit offers. The GRHC's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the GRHC's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

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

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

## **PART I: OCCUPANCY STANDARDS**

### **5-I.A. OVERVIEW**

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

### **5-I.B. DETERMINING UNIT SIZE**

The GRHC will use the same occupancy standards for each of its public housing developments. The GRHC's occupancy standards are as follows:

- The GRHC will assign one bedroom for each two persons within the household, except in the following circumstances:
  - Persons of different generations will not be required to share a bedroom.
  - Children of separate genders under the age of 6 will share a bedroom.
  - Unrelated adults of the same gender may be allocated separate bedrooms.
  - Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
  - Single person families will be allocated a zero or one bedroom.
- Children related to a household member by birth, adoption, or court awarded custody will be considered when determining unit size.
- Foster children will be considered when determining unit size if they will be in the unit for more than 90 calendar days. The family may add foster children to the household if it does not overcrowd the unit based on the GRHC's occupancy standards.
- Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.
- Children in the process of being adopted will be considered when determining unit size.
- Children who will live in the unit less than 50 percent of the time will not be considered when determining unit size.
- The GRHC will reference the following standards in determining the appropriate unit bedroom size for a family:

| <b>BEDROOM SIZE</b> | <b>MINIMUM NUMBER OF PERSONS</b> | <b>MAXIMUM NUMBER OF PERSONS</b> |
|---------------------|----------------------------------|----------------------------------|
| 0                   | 1                                | 1                                |
| 1                   | 1                                | 2                                |
| 2                   | 2                                | 4                                |
| 3                   | 3                                | 6                                |
| 4                   | 4                                | 8                                |
| 5                   | 6                                | 10                               |
| 6                   | 8                                | 12                               |

## **5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

### **Types of Exceptions**

The GRHC will consider granting exceptions to the occupancy standards at the family's request if the GRHC determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances. For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit. When evaluating exception requests the GRHC will consider the size and configuration of the unit. In no case will the GRHC grant an exception that is in violation of local housing or occupancy codes, regulations, or laws. Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition. To prevent vacancies, the GRHC may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

### **Processing of Exceptions**

All requests for exceptions to the occupancy standards must be submitted in writing. In the case of a request for exception as a reasonable accommodation, the GRHC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the GRHC will consider the exception request any time the resident indicates that an accommodation is needed whether a formal written request is submitted. Requests for a larger size unit must explain the need or justification for the larger size unit and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The GRHC will notify the family of its decision within 15 calendar days of receiving the family's request.

## **PART II: UNIT OFFERS 24 CFR 1.4(b)(2)(ii)**

### **5-II.A. OVERVIEW**

This part contains the GRHC's policies for making unit offers and describes actions to be taken when unit offers are refused. The GRHC's system of unit offers is part of its tenant selection and assignment plan (TSAP). The TSAP must assure equal opportunity and nondiscrimination for all protected classes. The GRHC will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

### **5-II.B. NUMBER OF OFFERS**

The GRHC has adopted a "one offer plan" for offering units to applicants. Under this plan the first qualified applicant in sequence on the waiting list will be made one offer of a unit of the appropriate size, at a site in which the applicant has applied to reside.

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

Applicants must accept or refuse a unit offer within 5 calendar days of the date of the unit offer. Offers made by telephone will be confirmed by letter.

### **5-II.D. REFUSALS OF UNIT OFFERS**

#### **Good Cause for Unit Refusal**

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

- The family demonstrates to the GRHC's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the GRHC's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

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

**Unit Refusal without Good Cause**

When an applicant rejects the final unit offer without good cause, the GRHC will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14). The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the GRHC opens the waiting list.

**5-II.E. ACCESSIBLE UNITS**

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit. When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the GRHC will offer the unit to a non-disabled applicant.

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

**5-II.F. DESIGNATED HOUSING**

GRHC does not operate a designated housing development.

**Chapter 6**  
**INCOME AND RENT DETERMINATIONS**  
[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

**INTRODUCTION**

This chapter describes HUD regulations and GRHC policies related to income and rent determinations as follows:

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and GRHC policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and GRHC policies for calculating income from assets are found in Part II.

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

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

## **PART I: ANNUAL INCOME**

### **6-I.A. OVERVIEW**

This section provides the general definition of *annual income* and explains how Part I is organized. The general regulatory definition of annual income shown below is from 24 CFR 5.609. 5.609

***Annual income.*** Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- *Annual Income Full Definition*(Exhibit 6-1)
- *Treatment of Family Assets* (Exhibit 6-2)
- *The Effect of Welfare Benefit Reduction* (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of Part I describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

### **6-I.B. HOUSEHOLD COMPOSITION AND INCOME**

#### **Overview**

This section in the ACOP discusses household composition only as it relates to income calculations. Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and GRHC policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.



| <b>Summary of Income Included and Excluded by Person</b>                  |   |
|---|---|
| Live-in aides   | Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].  |
| Foster child or foster adult  | Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].  |
| Head, spouse, or cohead<br>Other adult family members                     | All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].  |
| Minors  | Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].<br>All other sources of unearned income, except those specifically excluded by the regulations, are included.     |
| Full-time students 18 years of age or older (not head, spouse, or cohead) | Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)].<br>All other sources of unearned income, except those specifically excluded by the regulations, are included. |

### **Temporarily Absent Family Members**

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence. Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit. This section of the plan provides GRHC policies on several types of temporarily absent family members.

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

### **Absent Students**

HUD does not specifically address students who are absent from a household. Although this issue would also apply to students under 18 years who are living away from the family, the major focus of this policy is to deal with students 18 and above who may or may not still be family members. When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the GRHC indicating that the student has established a separate household, or the family declares that the student has established a separate household.

### **Absences Due to Placement in Foster Care**

Children temporarily absent from the home because of placement in foster care are considered members of the family [24 CFR 5.403]. If a child has been placed in foster care, the GRHC will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will continue be counted as a family member.

**Absent Head, Spouse, or Cohead**

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

**Family Members Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, the GRHC will determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations*, p. 12].

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities

**Joint Custody of Children**

When a joint custody agreement causes a child to live in more than one location, the GRHC must determine whether the child is a member of a tenant family. Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time. When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the GRHC will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

**Caretakers for a Child**

This policy is intended to address those relatively rare and temporary circumstances in which children remain in a unit without a parent or designated guardian. This might happen in the case of the death of the parent. In such circumstances, the care arrangements for the child may be formal or informal. The approval of a caretaker is at the GRHC's discretion and subject to the GRHC's screening criteria. If neither a parent nor a designated guardian remains in a household, the GRHC consider the following:

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the

caretaker's role is temporary. In such cases the GRHC will extend the caretaker's status as an eligible visitor.

- At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

### **6-I.C. CALCULATING ANNUAL INCOME**

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

#### **Anticipating Annual Income [24 CFR 5.609(c)(1)]**

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

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

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

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

#### **Known Changes in Income**

If the GRHC verifies an upcoming increase or decrease in income, annual income will be projected by applying each income amount to the appropriate part of the 12-month period. The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the GRHC will calculate annual income using current circumstances and then require an interim reexamination when the change occurs. This requirement will be imposed even if the GRHC's policy on reexaminations does not require interim reexaminations for other types of changes. When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 calendar days of the reexamination interview date.

|  |
|--|
| <p><b>Example:</b> An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the new admission or</p> |
|--|

|   |
|---|
| interim reexamination. In such a case the PHA would calculate annual income as follows:<br>$(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$ |
|---|

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the GRHC will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 9.

**Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023-27]**

At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.

**6-I.D. EARNED INCOME [24 CFR 5.609(b) and (c)]**

***Wages and Related Compensation* [24 CFR 5.609(a); Notice PIH 2023-27]**

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

The GRHC will include in annual income the full amount, before any payroll deductions, wages

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

### ***Military Pay***

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

### ***Earnings of a Minor [24 CFR 5.609(b)(3)]***

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

### ***Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]***

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included. A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, *Lease Requirements*, p. 5].

## **6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]**

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

### **Calculation of the Disallowance**

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

## **Calculation Method**

### **Initial 12-Month Exclusion**

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The EID regulations state that the initial 12-month exclusion period begins “on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment” [24 CFR 5.617(c)(1)]. However, in frequently asked questions on the EID, HUD has stated that, for tracking and administrative purposes, a GRHC may begin the EID on the first day of the month following new employment or an increase in earnings. The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

### **Second 12-Month Exclusion**

During the second exclusion period of 12 consecutive months, the GRHC must exclude at least 50 percent of any increase in income attributable to employment or increased earnings. During the second 12-month exclusion period, the GRHC will exclude 50 percent of any increase in income attributable to new employment or increased earnings. During the 24-month eligibility period, the GRHC will schedule and conduct an interim reexamination each time there is a change in the family member’s annual income that affects or is affected by the EID (e.g., when the family member’s income falls to a level at or below his or her baseline income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

### **Lifetime Limitation**

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins while the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member’s exclusion period continue past January 1, 2026.

### **Individual Savings Accounts [24 CFR 960.255(d)]**

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

## **6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28);**

### **Notice PIH 2023-27]**

Annual income includes “the net income from the operation of a business or profession.” *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

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”.

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

### **Definitions for Calculating Business Income**

HUD uses several financial terms in the regulation but does not define them. The ACOP clarifies the meaning of these terms below.

#### **Business Expansion**

HUD rules specify that the cost of business expansion may not be used to determine net income from a business but does not define *business expansion*. *Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate a business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

#### **Capital Indebtedness**

HUD rules specify that amortization of capital indebtedness cannot be counted as a business expense for the purpose of determining net income. The language included below explains what this means and clarifies how capital indebtedness is handled in rent calculations. *Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the GRHC will allow as a business expense interest, but not principal, paid on capital indebtedness.

#### **Negative Business Income**

The ACOP borrows language from HUD Handbook 4350.3 [p. 5-10] to clarify that no income will be counted if business income is negative and that losses cannot offset other income.

#### **Withdrawal of Cash or Assets from a Business**

The regulation requires the GRHC to include in annual income the value of cash or assets withdrawn from a business unless the withdrawal reimburses a family member for investments the family has made in the business. However, it gives no guidance about what constitutes an investment that may be reimbursed. Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of tenant family provided an up-front loan of \$2,000 to help a business get started, the GRHC will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

### **Co-owned Businesses**

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

### **Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

## **6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students.

### **Types of Assistance**

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institution of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:



- For tuition, book, supplies, room and board, or other fees required and charged to the student by the education institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the GRHC.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

### **Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the GRHC will exclude the full amount of the assistance received under Title IV from the family's annual income. The GRHC will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the GRHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The GRHC will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The GRHC will include any amount of financial assistance in excess of the student's actual covered costs in the

family's annual income.

**Example 1**

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the GRHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

**Example 2**

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the GRHC will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

### **Example 3**

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

### **Example 4**

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

## **6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]**

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

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of

wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

**Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

The GRHC will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reports this during the period in which the PHA is processing an annual reexamination, the GRHC will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the GRHC is processing an annual reexamination, then the GRHC will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the GRHC will conduct an interim in accordance with GRHC policies in Chapter 9. If not, the GRHC will consider the amount when processing the family's next annual recertification.

**Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

**Social Security Benefits [Notice PIH 2023-27]**

The GRHC is required to use the gross benefit amount to calculate annual income from Social Security benefits. Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits.

Effective the day after the SSA has announced the COLA, the GRHC is required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27].

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid

in full, the GRHC will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. Further, if a family's social security income is garnished for any reason, the GRHC will use the net amount after the garnishment in order to calculate the family's income.

### **Alimony and Child Support**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

The GRHC will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement. The GRHC will count court-awarded amounts for alimony and child support unless the family certifies and the GRHC verifies that the payments are not being made.

In order to verify that payments are not being made, the GRHC will review child support payments over the last three months.

- If payments are being made regularly, the GRHC will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the GRHC will average all payments that have been made.
- At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the GRHC will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.
  - If the GRHC determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.
  - If the GRHC determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.
- If no payments have been made in the past three months and there are no lump sums, the GRHC will not include alimony or child support in annual income

### **6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies. Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income

as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

## **6-I.J. WELFARE ASSISTANCE**

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

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

The GRHC must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

### *Covered Families*

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

### *Imputed Income*

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the GRHC must include in annual income "imputed" welfare income. The GRHC must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

### *Offsets*

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

### **Special Rules for As-Paid Welfare Localities [24 CFR 5.609(b)(6)(ii)]**

An as-paid welfare assistance system is not used in the GRHC's jurisdiction.

### **6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

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

### **6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

### **6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments,

including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

#### **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]**

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

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)] However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].



- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(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) [(24 CFR 5.609(b)(12)(i))].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount 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 [24 CFR 5.600(b)(12)(iii)].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

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

The GRHC defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4]. In calculating the incremental difference, the GRHC will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058. End of participation in a training program must be reported in accordance with the GRHC’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude 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(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].
- HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  - (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (f) Payments or allowances made under the Department of Health and Human Services’ Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
  - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
  - (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
  - (j) Payments, funds, or distributions authorized, established, or directed by the Seneca

Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

- (k) A lump sum or 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. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) 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)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) 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)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) 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)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH

2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements"  
(25 U.S.C. 117b(a))

- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

## **PART II: ASSETS**

### **6-II.A. OVERVIEW**

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*. Policies related to asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

The GRHC generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The GRHC will use other than current circumstances to anticipate income when:

- (1) an imminent change in circumstances is expected,
- (2) it is not feasible to anticipate a level of income over 12 months, or
- (3) the PHA believes that past income is the best indicator of anticipated income.

For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the GRHC can take into consideration past rental income along with the prospects of obtaining a new tenant.

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

### **6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

#### **[24 CFR 5.603(b)(2)]**

The GRHC will include the value of any business or family assets disposed of by an applicant or participant 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 or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

#### ***Minimum Threshold***

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

#### ***Separation or Divorce***

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to

qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### ***Asset Owned by a Business Entity***

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

### ***Family Declaration***

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

## **6-II.C. ASSET INCLUSIONS AND EXCLUSIONS**

### ***Checking and Savings Accounts [Notice PIH 2023-27]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

### ***ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The GRHC will exclude the entire value of the individual's ABLE account

from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0.

When the stock never issues dividends, the actual return is \$0. The GRHC will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash. In determining the market value of an investment account, the GRHC will use the value of the account on the most recent investment report.

***Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]***

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*. *Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts. The value of necessary items of personal property is excluded from the calculation of net family assets.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not

qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

| Necessary Personal Property  | Non-Necessary Personal Property  |
|--|--|
| Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)<br>Furniture, carpets, linens, kitchenware<br>Common appliances<br>Common electronics (e.g., radio, television, DVD player, gaming system)<br>Clothing<br>Personal effects that are not luxury items (e.g., toys, books)<br>Wedding and engagement rings<br>Jewelry used in religious/cultural celebrations and ceremonies<br>Religious and cultural items<br>Medical equipment and supplies<br>Health care–related supplies<br>Musical instruments used by the family<br>Personal computers, phones, tablets, and related equipment<br>Professional tools of trade of the family, for example professional books<br>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities<br>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment) | Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))<br>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)<br>Recreational boat/watercraft<br>Expensive jewelry without religious or cultural value, or which does not hold family significance<br>Collectibles (e.g., coins/stamps)<br>Equipment/machinery that is not used to generate income for a business<br>Items such as gems/precious metals, antique cars, artwork, etc. |

In determining the value of non-necessary personal property, the GRHC will use the family’s estimate of the value. The GRHC may obtain an appraisal if there is reason to believe that the family’s estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.



***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) 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 are also excluded from income.

However, these amounts may count toward net family assets. The GRHC will consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the GRHC chooses not to conduct the examination.

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, the GRHC will include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets. If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's

owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

***Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]***

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

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the GRHC will not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets. If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The GRHC will count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

***Asset Exclusions [24 CFR 5.603(b)]***

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].

- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

## 6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

### ***Net Family Assets***

*Net family assets* are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

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

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

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so

negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

### ***Actual Income from Assets***

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b). Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The GRHC may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy. The GRHC will not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### ***Imputed Income from Assets***

When net family assets exceed \$50,000 (adjusted annually by HUD), the GRHC will not rely on self-certification. If actual returns can be calculated, the GRHC will include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the GRHC will calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the GRHC can compute actual income from some but not all assets, the GRHC will compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## **PART III: ADJUSTED INCOME**

### **6-III.A. INTRODUCTION**

#### **Overview**

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions*

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
  - (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

#### **Anticipating Expenses**

Generally, the GRHC will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the GRHC will estimate costs based on historic data and known future costs. If a family has an accumulated debt for medical or disability assistance expenses, the GRHC will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The GRHC may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the GRHC will include those expenses anticipated to be incurred during the 12 months following the certification date reexam which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

### **6-II.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income for each dependent (which amount will be

adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25)[24 CFR 5.611(a)(1)]. A dependent is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)]

### **6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(2)]. An elderly family is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a disabled family is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

### **6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]**

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income. This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

#### **Definition of Medical Expenses**

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.”

Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expense*

#### **Families That Qualify for Both Health and Medical and Disability Assistance Expenses**

In elderly or disabled households, it is possible that the same expense could be considered either a health and medical care expense or a disability assistance expense. This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities. When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the GRHC will consider them medical expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

## **6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 5.611(a)(3)(ii)]**

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they:

- (1) are necessary to enable a family member 18 years or older to work,
- (2) are not paid to a family member or reimbursed by an outside source,
- (3) in combination with any medical expenses, exceed ten percent of annual income, and
- (4) do not exceed the earned income received by the family member who is enabled to work.

### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the GRHC will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the GRHC determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes [New PH OCC GB, *Income Determination*, p. 28].

### ***Eligible Auxiliary Apparatus [Notice PIH 2023-27]***

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

### ***Eligible Attendant Care [Notice PIH 2023-27]***

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. When a family includes a person with disabilities, the family determines the type of attendant care, if any that is appropriate for the person. The family determines the type of attendant care that is appropriate for the person with disabilities.

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



If the care attendant also provides other services to the family, the GRHC will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### **Payments to Family Members**

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

### *Necessary and Reasonable Expenses*

The regulation requires disability assistance expenses to be “necessary” and “reasonable,” but HUD provides no further definition of these terms. It is not appropriate for GRHC staff to determine the medical or care needs of a person with disabilities. Therefore, the person’s family, not the GRHC, must determine the type of attendant care or auxiliary apparatus that is necessary. However, the GRHC must still determine whether the cost of the disability assistance is reasonable.

The GRHC determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the GRHC will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the GRHC will consider, the family’s justification for costs that exceed typical costs in the area.

### **Families That Qualify for Both Health and Medical Care and Disability Assistance Expenses**

In elderly or disabled households, it is possible that the same expense could be considered either a health and medical care expense or a disability assistance expense. The GRHC must clarify for staff how these expenses will be handled. This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities. When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the GRHC will consider them health and medical care expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

### **6-II.F. CHILD CARE EXPENSE DEDUCTION**

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

income.”

### **Clarifying the Meaning of *Child* for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family’s household are included when determining the family’s child care expenses [HCV GB, p. 5-29].

### **Qualifying for the Deduction**

#### ***Determining Who Is Enabled to Pursue an Eligible Activity***

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the GRHC will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### ***Seeking Work***

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child care expense being allowed by the GRHC.

#### ***Furthering Education***

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

#### ***Being Gainfully Employed***

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member’s employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

### **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The GRHC will not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period. When more than one family member works during a given period, the GRHC generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

### **Eligible Child Care Expenses**

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare. The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible. If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the GRHC will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### **Necessary and Reasonable Costs**

HUD regulations require childcare expenses to be "necessary" and "reasonable," but HUD provides no further definition of these terms. It is not appropriate for GRHC staff to determine the childcare needs of individual children. Therefore, the family, not the GRHC, must determine the type of childcare that is necessary. However, GRHC staff must still evaluate whether the timing and duration of the childcare are consistent with the eligible activities and whether the costs are reasonable for the type of care being provided.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the GRHC will use the schedule of childcare costs from the local welfare agency. Families may present, and the GRHC will consider, justification for costs that exceed typical costs in the area.

### **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

#### ***Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c);***

#### ***Notice PIH 2023-27]***

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be

employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

### ***Phased-In Relief***

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first. For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

The GRHC will track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the GRHC. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program). The GRHC will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

### ***General Relief***

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in GRHC policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. The

GRHC will obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. The GRHC defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with GRHC policies.

Examples of *circumstances* constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances as determined by the GRHC.

The family must provide third-party verification of the hardship with the request. If third-party *verification* is not available, the GRHC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The GRHC will promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

The GRHC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

- If the GRHC denies the hardship exemption request, the GRHC notice will also state that if the family does not agree with the GRHC determination, the family may request a hearing.
- If the family qualifies for an exemption, the GRHC will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the GRHC may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. The GRHC is not limited to a maximum number of 90-day extensions.

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The GRHC will extend relief for an additional 90-days if the family

demonstrates to the GRHC's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The GRHC will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the GRHC may terminate the hardship exemption if the GRHC determines that the family no longer qualifies for the exemption.

***Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]***

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the GRHC's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the GRHC will recalculate the family's adjusted income and continue the child care deduction.

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The GRHC defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The GRHC will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the GRHC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The GRHC will promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the GRHC denies the request, the notice must specifically state the reason for the denial. The GRHC will provide families 30 days' notice of any increase in rent.

If the GRHC approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The GRHC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

- If the PHA denies the hardship exemption request, the GRHC notice will also state

that if the family does not agree with the GRHC determination, the family may request a grievance hearing.

- If the family qualifies for an exemption, the GRHC will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The GRHC may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in GRHC policies. The GRHC is not limited to a maximum number of 90-day extensions.

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The GRHC will extend relief for an additional 90-days if the family demonstrates to the GRHC's satisfaction that the family continues to qualify for the hardship exemption. The GRHC will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period.

Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the GRHC may terminate the hardship exemption if the GRHC determines that the family no longer qualifies for the exemption.

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

The GRHC has opted not to use permissive deductions.

## **PART III: CALCULATING RENT**

### **6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS**

This section of the ACOP presents the regulatory formula for calculating total tenant payment (TTP). Utility allowances are discussed in section 6-III.C.

#### **TTP Formula [24 CFR 5.628]**

A family's total tenant payment (TTP) is the greatest of:

- 30 percent of the family's monthly adjusted income
- 10 percent of the family's monthly gross income
- The welfare rent (in as-paid jurisdictions only)
- The minimum rent (established by the GRHC)

#### **Minimum Rent [24 CFR 5.630]**

The minimum rent for this locality is \$50.

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

The GRHC chooses not to adopt optional changes to income-based rents.

#### **Ceiling Rents [24 CFR 960.253(d)]**

The GRHC will adjust ceiling rent to the flat rent level or no greater than 80% of the local area FMR provided by HUD on an annual basis.

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

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the GRHC to make the utility payment to the family or directly to the utility provider. The GRHC will make utility reimbursements to the family. The GRHC will issue all utility reimbursements monthly.

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

#### **Overview**

When a family requests a financial hardship exemption, the steps required by the regulations depend on whether the GRHC determines that the request is valid and whether the hardship will be temporary or long-term. HUD's requirements and GRHC decision points are described below.

#### **HUD-Defined Financial Hardship**

HUD-defined hardships specified in 24 CFR 5.630(b) include:

1. The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996. A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny



assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

2. The family would be evicted because it is unable to pay the minimum rent.  
For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.
3. Family income has decreased because of changed family circumstances, including the loss of employment.
4. A death has occurred in the family.  
To qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).
5. The family has experienced other circumstances determined by the GRHC. The GRHC has not established any additional hardship criteria.

## **Implementation of Hardship Exemption**

### **Determination of Hardship**

When a family requests a financial hardship exemption, the GRHC must suspend the minimum rent requirement beginning the first of the month following the family's request. When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The GRHC then determines whether the financial hardship exists and whether the hardship is temporary or long-term. The GRHC defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days. To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent. The GRHC will make the determination of hardship within 30 calendar days.

### **No Financial Hardship**

The regulation requires that if there is no financial hardship, the GRHC must reinstate the minimum rent and require the family to repay the amounts suspended on terms and conditions set by the GRHC [24 CFR 5.630(b)(2)(iii)(A)]. The GRHC will require the family to repay the suspended amount within 30 calendar days of the GRHC's notice that a hardship exemption has not been granted.

### **Temporary Hardship**

If the GRHC determines that a qualifying financial hardship is temporary, the GRHC must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption. The family must resume payment of the minimum rent and must repay the GRHC the amounts suspended. The GRHC will enter into a repayment agreement in accordance with the GRHC's repayment policy.

### **Long-Term Hardship**

If the GRHC determines that the financial hardship is long-term, the GRHC must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. Repayment of the minimum rent for the period of the long-term hardship is not required.

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

1. At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
2. For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
3. For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

### **6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]**

#### **Overview**

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent.

#### **Reasonable Accommodation [24 CFR 8]**

The GRHC must make exceptions to their utility allowances when needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability.

#### **Utility Allowance Revisions**

The tenant rent calculations must reflect any changes in the GRHC's utility allowance schedule [24 CFR 960.253(c)(3)]. Unless the GRHC is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

### **6-III.D. PRORATED RENT FOR "MIXED" FAMILIES [24 CFR 5.520]**

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

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

#### **Flat Rents [24 CFR 960.253(b)]**

The GRHC will utilize 80% of Local Area Fair Market Rent as the Flat Rent, as required by HUD guidance PIH Notice 2022-33.

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

Once each year, the GRHC must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The annual GRHC offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination. The GRHC will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

**Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]**

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. Upon determination by the GRHC that a financial hardship exists, the GRHC will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request. The GRHC considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

**Phasing In Flat Rents [Notice PIH 2022-33; 24 CFR 960.253(b)]**

- If the new 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; OR
- If the GRHC 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. For more guidance, please review PIH Notice 2022-33 (<https://www.hud.gov/sites/dfiles/PIH/documents/2022-PIH-33.pdf>).

## EXHIBIT 6-1: ANNUAL INCOME EXCLUSIONS

### 24 CFR 5.609

(c) (a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

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

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

- (1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
- (2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:
- (i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or
  - (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.
- (10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.
- (11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- (12)
- (i) 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);
  - (ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - (iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount 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.
  - (iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, 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 unless those amounts are excluded under paragraph (b)(9)(i) of this section.
- (13) 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.
- (14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.
- (15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) 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.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) 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.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude 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 paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and

Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) 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; and

(ii) 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.



## EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must 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 consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement

based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

**(4) 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 trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.**

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

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|--|
| <p style="text-align: center;"><b>EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION</b><br/><b>24 CFR 5.615</b></p> |
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**Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

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

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

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

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

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

*Specified welfare benefit reduction.*

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

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

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

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

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

**(c) Imputed welfare income.**

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

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

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

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

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

**(d) Review of PHA decision.**

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA

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

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

*(e) PHA relation with welfare agency.*

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

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

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

## **Chapter 7**

### **VERIFICATION**

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2023-27]

#### **INTRODUCTION**

The GRHC must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The GRHC will not pass on the cost of verification to the family.

The GRHC will follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary GRHC policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the GRHC.

## **PART I: GENERAL VERIFICATION REQUIREMENTS**

### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]**

#### **Consent Forms**

The family must supply any information that the GRHC or HUD determines is necessary to the administration of the program and must consent to GRHC verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### **Form HUD-9886-A [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]**

All adult applicants and tenants must sign form HUD-9886A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the GRHC's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the GRHC except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the GRHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The GRHC may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act ([12 U.S.C. 3401](#)), whenever the GRHC determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the GRHC to revoke consent.

### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the GRHC will deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the GRHC's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the GRHC to access financial records from financial institutions. The GRHC has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with GRHC policy. In order for a family to revoke their consent, the family must provide written notice to the GRHC.

Within 15 calendar days of the date the family provides written notice, the GRHC will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the GRHC will notify the local HUD office.

### **7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

The GRHC will not utilize other programs' income determinations as part of its program management.

### **7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]**

When the GRHC does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then the GRHC will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

- The GRHC will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.
- The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.
- The GRHC will document in the file how the determination that a source of income was fixed was made.
- Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.
- If the family's sources of fixed income have changed from the previous year, the GRHC will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

- The GRHC will apply a COLA to each of the family's sources of fixed income.
- All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed

sources, the GRHC will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

- Of all assets when net family assets exceed \$50,000;
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During the intake process and at least once every three years thereafter.

#### **7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]**

When the GRHC does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the GRHC to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the GRHC to use the most reliable form of verification that is available and to document the reasons when the GRHC uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The GRHC will demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "tenant-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

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

#### **File Documentation**

The GRHC will document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the

verification process will be recorded in the family's file in sufficient detail to demonstrate that the GRHC has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

#### **7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the GRHC's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. The GRHC may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the GRHC. There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the GRHC has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the GRHC's informal review/hearing processes.

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

The GRHC will use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

#### ***EIV Income and IVT Reports***

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the GRHC will obtain EIV Income and IVT reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The GRHC will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV. Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy. When the GRHC determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

#### ***New Hires Report [Notice PIH 2023-27]***

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly. The GRHC will review this information at annual reexamination.



In accordance with GRHC policies in Chapter 9, the GRHC does not process interim reexaminations for families who have increases in earned income. The GRHC will only review the New Hires Report at annual reexamination.

### ***No Income Reported by HHS or SSA Report***

The GRHC will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The GRHC will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the GRHC may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the GRHC determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

### ***EIV Identity Verification Report***

The GRHC will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The GRHC will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When the GRHC determines that discrepancies exist as a result of GRHC errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

### ***Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]***

The GRHC will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, The GRHC will immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The GRHC will conduct a home visit to determine if anyone is residing in the unit.

The GRHC is required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the GRHC legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The GRHC will not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

### ***Other EIV Reports [Notice PIH 2023-27]***

The GRHC is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

### ***Upfront Income Verification Using Non-HUD Systems***

The GRHC will inform all applicants and residents of its use of UIV, if ever utilized.

## **7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

### **EIV + Self-Certification**

At annual reexamination, if the GRHC is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the GRHC will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The GRHC will use an average of the last two quarters of income listed in EIV to determine income from employment. The GRHC will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the GRHC will use written third-party verification from the source as outlined below.

The GRHC will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the GRHC. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source. Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The GRHC is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information. When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, the GHRC is required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

In general, the GRHC will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used;
- For all new admissions; and

- For all interim reexaminations.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the GRHC. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The GRHC may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the GRHC determines that third-party documents provided by the family are not acceptable, the GRHC will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the GRHC will obtain one statement that reflects the current balance of the account. When pay stubs are used, the GRHC will require the family to provide the two most current, consecutive pay stubs. At the GRHC's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the GRHC may request additional paystubs or a payroll record.

### **7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM**

#### **[Notice PIH 2023-27]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." The GRHC sends a GRHC-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

Typically, the GRHC will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable. However, on a case-by-case basis, the GRHC may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

## **7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]**

For third-party oral verification, The GRHC contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 15 calendar days.

The GRHC will document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The GRHC may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

### **When Third-Party Verification is Not Required [Notice PIH 2023-27]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

If the family cannot provide original documents, the GRHC will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family. The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### **7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the GRHC has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total \$50,000 or less;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or

When the GRHC is required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the GRHC. The GRHC may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the GRHC and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

## **PART II: VERIFYING FAMILY INFORMATION**

### **7-II.A. VERIFICATION OF LEGAL IDENTITY**

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

| <b>Verification of Legal Identity for Adults</b>   | <b>Verification of Legal Identity for Children</b>   |
|--|--|
| Certificate of birth, naturalization papers<br>Church issued baptismal certificate<br>Current, valid driver's license or<br>Department of Motor Vehicle<br>identification card<br>U.S. military discharge (DD 214)<br>Current U.S. passport<br>Current government employer<br>identification card with picture | Certificate of birth<br>Adoption papers<br>Custody agreement<br>Health and Human Services ID<br>Certified school records |

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

If none of these documents can be provided and at the GRHC's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the GRHC and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the GRHC has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

## **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]**

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The GRHC will accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While the GRHC must attempt to gather third-party verification of SSNs prior to admission as listed above, the GRHC also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the GRHC will document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the GRHC will obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

The GRHC may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged. The GRHC will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the GRHC within 90 days.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the GRHC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The GRHC may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the GRHC determines that the resident's failure to comply was

due to unforeseen circumstances and was outside of the resident's control. During the period the GRHC is awaiting documentation of the SSN, the child will be counted as part of the assisted household. Social security numbers must be verified only once during continuously assisted occupancy.

The GRHC will verify each disclosed SSN by:

- Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once an individual's status is classified as "verified" in HUD's EIV system, the GRHC will not remove and destroy copies of documentation accepted as evidence of social security numbers.



### **7-II.C. DOCUMENTATION OF AGE**

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

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

### **7-II.D. FAMILY RELATIONSHIPS**

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

#### **Marriage**

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

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

#### **Separation or Divorce**

Certification by the head of household is normally sufficient verification. If the GRHC has reasonable doubts about a divorce or separation, the GRHC will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated. If no court document is available, documentation from a community-based agency will be accepted.

#### **Absence of Adult Member**

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

#### **Foster Children and Foster Adults**

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

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

The GRHC requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or cohead, or
- The family claims a child care deduction to enable a family member to further their education.

## **7-II.F. DOCUMENTATION OF DISABILITY**

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

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

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

### **Family Members Receiving SSA Disability Benefits**

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

### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

#### PHA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party

verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

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

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR 5.508(g)(5)]

### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors. Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the GRHC receives information indicating that an individual's declaration may not be accurate.

### **Eligible Immigrants**

#### ***Documents Required***

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

#### ***GRHC Verification*** [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the GRHC will verify immigration status with the U.S. Citizenship and Immigration Services (USCIS). The GRHC will follow all USCIS protocols for verification of eligible immigration status.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

The GRHC does not offer a preference for working families, described in Section 4-III.B.

## **PART III: VERIFYING INCOME AND ASSETS**

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

### **7-III.A. EARNED INCOME**

#### **Tips**

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

#### **Wages**

When the GRHC requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

### **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

The GRHC will obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment. Business owners and self-employed persons will be required to provide:

- Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not have to file tax returns, the GRHC will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the GRHC will provide a format for the individual to declare their income and expenses. The GRHC will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The GRHC will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the GRHC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the GRHC will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, the GRHC will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

#### **Social Security/SSI Benefits**

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the GRHC will ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the GRHC should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The GRHC will obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family. For participants, the GRHC will obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

If the participant agrees with the amount reported in EIV, the GRHC will use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The GRHC will use the EIV-reported amount unless the participant disputes the amount.

If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the GRHC will request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should [help](#) the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The GRHC will obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

#### **7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]**

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

The methods the GRHC will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments. If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 12 months prior to PHA request
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received

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

#### **7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]**

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. The GRHC will accept a self-certification from the family stating that the income will not be repeated in the coming year. However, the GRHC may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

#### **7-III.F. ASSETS AND INCOME FROM ASSETS**

##### **Net Family Assets [24 CFR 5.603]**

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the GRHC will accept the family’s self-certification that the family’s assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family’s income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. The GRHC will clarify during the self-certification process which assets are included/excluded from net family assets.

When net family assets have a total value over \$50,000, the PHA may not rely on the family’s self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, the GRHC is required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts. All family members 18 years of age and older must sign the family’s declaration. The GRHC reserves the right to request additional verification in situations where the accuracy of the declaration is in question.

Any income the family expects to receive from assets will be included in the family’s annual income. The family will be required to provide third-party verification of net family assets every three years. When verification is required, in determining the value of checking or savings accounts, the PHA will use the current balance. In determining the anticipated income from an

interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

### **Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]**

Both at admission and reexam, the GRHC will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The GRHC reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the GRHC will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the GRHC will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

### **7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The GRHC needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28]. The GRHC will accept a self-certification from a family as verification of assets disposed of for less than fair market value. The GRHC will verify the value of assets disposed of only if:

- The PHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly resident reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

### **7-III.H. NET INCOME FROM RENTAL PROPERTY**

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).
- If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax

statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS**

#### **[Notice PIH 2023-27]**

The GRHC is not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation). The GRHC will verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

### **7-III.J. RETIREMENT ACCOUNTS**

The GRHC will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### **7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the GRHC is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

The GRHC will accept a family's signed application or reexamination form as self-certification of fully excluded income. The GRHC will not require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, the GRHC has the option of requiring additional verification.

For partially excluded income, the GRHC **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

### **7-III.L. ZERO INCOME REVIEWS [Notice PIH 2023-27]**

A *zero income review* is an assessment, sometimes periodic, performed by the GRHC of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, the GRHC will request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require the GRHC to conduct periodic zero income reviews. In calculating annual income, the GRHC must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.



The GRHC will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income. The GRHC will also require that each family member who claims zero income status complete a zero income form. If any sources of income are identified on the form, the GRHC will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income. The GRHC will only conduct interims in accordance with PHA policy in Chapter 9.

#### **7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

The GRHC will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student. In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the GRHC will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution. If the GRHC is unable to obtain third-party written verification of the requested information, the GRHC will pursue other forms of verification following the verification hierarchy in section 7-I.B.

## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

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

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 for a full discussion of this deduction. The GRHC will verify that:

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

#### **Elderly/Disabled Family Deduction**

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The GRHC will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

### **7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION**

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. The GRHC will comply with the Health Insurance Portability and Accountability Act (HIPAA) ([Pub. L. 104-191](#), 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The GRHC may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the GRHC will redact all personally identifiable information [FR Notice 2/14/23].

#### **Amount of Expense**

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- The GRHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The GRHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the GRHC will redact all personally identifiable information. If the GRHC receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the GRHC will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the GRHC will note in the individual's file that verification was received, the date received, and the name and address of

the person/organization that provided the verification. Under no circumstances will GRHC include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the GRHC will verify that:

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

### **Eligible Household**

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

### **Qualified Expenses**

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the GRHC's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source. The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

### **Expenses Incurred in Past Years**

When anticipated costs are related to on-going payment of medical bills incurred in past years, the GRHC will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

## **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I. The GRHC will comply with the Health Insurance Portability and Accountability Act (HIPAA) ([Pub. L. 104-191](#), 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The GRHC will not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the GRHC will redact all personally identifiable information [FR Notice 2/14/23].

### **Amount of Expense**

#### ***Attendant Care***

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled

checks.

- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the GRHC will redact all personally identifiable information. If the GRHC receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the GRHC will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the GRHC will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will GRHC include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

### ***Auxiliary Apparatus***

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the GRHC will verify that:

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

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The GRHC will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

### **Family Member(s) Permitted to Work**

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

The GRHC will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members

(possibly including the family member receiving the assistance), to work.

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source. The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

### **7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the GRHC will verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

### **Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The GRHC will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

### **Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source. The family and the care provider will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

### **Pursuing an Eligible Activity**

The GRHC will verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### *Information to be Gathered*

The GRHC will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

### *Seeking Work*

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

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

### *Furthering Education*

The GRHC will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

#### *Gainful Employment*

The GRHC will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

#### **Allowable Type of Child Care**

The GRHC will verify that the type of child care selected by the family is allowable, as described in Chapter 6. The GRHC will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The GRHC will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

#### **Reasonableness of Expenses**

The actual costs the family incurs will be compared with other standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the GRHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**Exhibit 7-1: Summary of Documentation Requirements for Noncitizens**  
**[HCV GB, pp. 5-9 and 5-10]**

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

**Elderly Noncitizens**

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

**All other Noncitizens**

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - “Admitted as a Refugee Pursuant to Section 207”
  - “Section 208” or “Asylum”
  - “Section 243(h)” or “Deportation stayed by Attorney General”
  - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

Form I-688B Employment Authorization Card annotated “Provision of Law 274a.12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

**Chapter 8**  
**LEASING AND INSPECTIONS**  
[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

**INTRODUCTION**

This chapter describes HUD regulations and GRHC policies related to leasing and unit inspections in two parts:

Part I: Leasing. This part describes pre-leasing activities and the GRHC's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes the GRHC's policies for inspecting dwelling units and notifying families of HUD REAC NSPIRE inspections.



## **PART I: LEASING**

### **8-I.A. OVERVIEW**

This part describes pre-leasing activities and the GRHC's policies pertaining to lease execution, lease modification, and payments under the lease.

### **8-I.B. LEASE ORIENTATION**

After unit acceptance but prior to occupancy, a GRHC representative will conduct a lease orientation with the family. The head of household or spouse is required to attend.

#### **Orientation Agenda**

When families attend the lease orientation, they will be provided with:

- A copy of the lease
- A copy of the GRHC's grievance procedure
- A copy of the house rules
- A copy of the GRHC's schedule of maintenance charges
- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12
- A copy of the form HUD-5380, VAWA Notice of Occupancy Rights
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- A copy of the GRHC's smoke-free policy
- A notice that includes the procedures for requesting relief and the GRHC's criteria for granting requests for relief for excess utility surcharges

Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges
- Review and explanation of lease provisions
- Unit maintenance requests and work orders
- The GRHC's interim reporting requirements
- Review and explanation of occupancy forms
- Community service requirements
- Family choice of rent
- VAWA protections
- Smoke-free policies
- Pest Policy
- Pet Policy

### **8-I.C. EXECUTION OF LEASE**

The lease must be executed by the tenant and the GRHC, except for automatic renewals of a lease [24 CFR 966.4(a)(3)]. The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the GRHC will retain a copy in the resident's file. Files for

households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to GRHC assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

#### **8-I.D. MODIFICATIONS TO THE LEASE**

The lease may be modified at any time by written agreement of the tenant and the GRHC [24 CFR 966.4(a)(3)].

##### **Modifications to the Lease Form**

The family will have 30 calendar days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 calendar day timeframe, the family's tenancy will be terminated in accordance with the policies in Chapter 13. When the GRHC proposes to modify or revise schedules of special charges or rules and regulations, the GRHC will post a copy of the notice in the central office and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

##### **Other Modifications**

The lease will be amended to reflect all changes in family composition. If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and GRHC will be required to initial and date the change. If a new household member is approved by the GRHC to reside in the unit, the person's name will be added to the lease. The head of household and GRHC will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease. Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

#### **8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]**

Residents must pay a security deposit to the GRHC at the time of admission. The amount of the security deposit will be equal to the family's total tenant payment at the time of move-in and is preferred to be paid in full prior to occupancy. If requested, the GRHC will establish an individual payment plan for the security deposit. The GRHC will hold the security deposit for the period the family occupies the unit. The GRHC will not use the security deposit for rent or other charges while the resident is living in the unit. Within 30 calendar days of move-out, the GRHC will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease. The GRHC will provide the resident with a written list of any charges against the security deposit within 15 calendar days of the move-out inspection. If the resident disagrees with the amount charged, the GRHC will provide a meeting to discuss the charges. If the resident transfers to another unit, the GRHC will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

#### **8-I.F. PAYMENTS UNDER THE LEASE**

This section lists the GRHC's policies for rent payments, late fees and nonpayment, excess utility charges (where applicable), and maintenance or damage charges.

##### **Rent Payments [24 CFR 966.4(b)(1)]**

The tenant rent is due and payable at the GRHC-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter. If a family's tenant rent changes, the GRHC will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

### **Late Fees and Nonpayment [24 CFR 966.4(b)(3)]**

If the family fails to pay their rent by the fifth day of the month, and the GRHC has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises. In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of \$25.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 15 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the GRHC may not act for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis. When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of \$25.00 will be charged to the family. The fee will be due and payable 15 calendar days after billing.

### **Excess Utility Charges**

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 [24 CFR 966.4(b)(2)]. When applicable, families will be charged for excess utility usage according to the GRHC's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 15 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the GRHC may not act for nonpayment of the charges until the conclusion of the grievance process. Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction. The GRHC may grant requests for relief from surcharges from excess utility consumption of GRHC-furnished utilities as a reasonable accommodation where the GRHC deems an exception is appropriate to meet the needs of elderly, ill, or disabled residents. In determining whether to grant this request, the GRHC will consider special factors affecting utility usage that are not within the control of the resident such as the need for medical equipment. Residents may request relief in accordance with Section 2-II.C. of this ACOP. The GRHC will process such requests in accordance with Section 2-II.E. of this ACOP. Notice of the availability of procedures for requesting relief (including the GRHC representative with whom initial contact may be made by the resident) and the GRHC's criteria for granting requests, will be included in each notice to residents of changes in utility allowances or surcharges as well as to new residents as part of the lease orientation.

### **Maintenance and Damage Charges**

When applicable, families will be charged for maintenance and/or damages according to the GRHC's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable). Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 15 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the GRHC may not take action for nonpayment of the charges until the conclusion of the grievance

process. Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

**8-I.G. MINIMUM HEATING STANDARDS [Notice PIH 2018-19]**

This section lists the GRHC's minimum heating standards for public housing units. The GRHC is in an area where state or local residential heating standards exist and will utilize those standards for public housing units. Therefore, the GRHC's minimum heating standards are as follows, the minimum temperature in each unit must be at least 68 degrees.

## **PART II: INSPECTIONS**

### **8-II.A. OVERVIEW**

The GRHC is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the GRHC under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the GRHC to inspect each public housing dwelling unit prior to move-in, and at move-out, and annually during occupancy. In addition, the GRHC may require additional inspections, in accordance with GRHC policy. This part contains the GRHC's policies governing inspections by the GRHC and HUD, notification of unit entry, and inspection results repair timelines. This section discusses inspections conducted by the GRHC (including annual self-inspections) and inspections conducted by HUD REAC.

### **8-II.B. PHA-CONDUCTED INSPECTIONS**

The GRHC is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

#### **Types of PHA-Conducted Inspections**

##### **Move-In Inspections [24 CFR 966.4(i)]**

Any adult family member may attend the initial inspection and sign the inspection form for the head of household. A copy of the inspection will be available upon request.

##### **Move-Out Inspections [24 CFR 966.4(i)]**

When applicable, the GRHC will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 15 calendar days of conducting the move-out inspection.

##### ***Self-Inspections [24 CFR 5.707]***

Annually the GRHC is required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, the GRHC will ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

The GRHC will maintain the results of self-inspections for three years and must provide the results to HUD upon request.

### **Quality Control Inspections**

While quality control inspections are not required by regulation, GRHC will implement them to monitor the quality of inspections and to ensure that defects are identified and repaired in a timely manner. On an annual basis, the GRHC will conduct supervisory quality control inspections of annual inspections.

### **Special Inspections**

This section lists additional inspections that the GRHC may wish to conduct. GRHC staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists

### **Other Inspections**

This section describes the GRHC's policies for inspecting areas of the development other than dwelling units. Building exteriors, grounds, common areas and systems will be inspected according to the GRHC's maintenance plan.

### **Notice of Entry**

#### ***Non-emergency Entries [24 CFR 966.4(j)(1)]***

The GRHC will notify the resident in writing at least 48 hours prior to any non-emergency inspection. For regular annual inspections, the family will receive at least one (1) week's written notice of the inspection to allow the family to prepare the unit for the inspection. Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the GRHC to enter the unit.

#### ***Emergency Entries [24 CFR 966.4(j)(2)]***

The GRHC may enter a unit at any time without notice if there is reasonable cause to believe an emergency exists.

### ***Scheduling of PHA Conducted Inspections***

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the GRHC at least 24 hours prior to the scheduled inspection. The GRHC will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The GRHC may request verification of such cause.

### **Attendance at Inspections**

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes. If no one is at home, the inspector will enter the unit, conduct the inspection, and leave a copy of the inspection report in the unit.

### **Emergency Repairs [24 CFR 966.4(h)]**

An emergency repair occurs when the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants. When conditions in the unit are hazardous to life, health, or safety, the GRHC will make repairs or otherwise abate the situation

within 24 hours.

### **Non-emergency Repairs**

The GRHC will correct deficiencies resulting in a non-emergency work order identified during a GRHC conducted inspection within 21 calendar days of the inspection date. If the GRHC is unable to make repairs within that period due to circumstances beyond the GRHC's control (e.g. required parts or services are not available, weather conditions, etc.) the GRHC will notify the family of an estimated date of completion. The family must allow the GRHC access to the unit to make repairs.

### **Resident-Caused Damages**

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., Maintenance and Damage Charges. Repeated or excessive damage to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

### **Housekeeping**

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the GRHC will provide proper notice of a lease violation. A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13. Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence will result in lease termination.**8-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]** During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

### **Notice to Residents [Notice PIH 2023-16]**

The GRHC will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

### **24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]**

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the PHA with a list of Life-Threatening and Severe deficiencies. The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, the GRHC will provide HUD with a timeframe for completing permanent repairs and

submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

The GRHC will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the GRHC will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While the GRHC will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, the GRHC will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, the GRHC will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD. The family must allow the GRHC access to the unit to make repairs.

### **Non-emergency Repairs**

Under NSPIRE, the GRHC must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

If the GRHC is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond the GRHC's control (e.g., required parts or services are not available, weather conditions, etc.), the GRHC will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. The GRHC will also notify the family of an estimated date of completion.

The family must allow the GRHC access to the unit to make repairs. Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.



## **Chapter 9**

### **REEXAMINATIONS**

[24 CFR 960.257, 960.259, 966.4]

#### **INTRODUCTION**

The GRHC is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. The GRHC must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)]. The frequency with which the GRHC must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the GRHC to offer all families the choice of paying income-based rent or flat rent at least annually. The GRHC's policies for offering families a choice of rent are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the GRHC's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the GRHC's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and the GRHC policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the GRHC must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

## **PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS [24 CFR 960.257]**

### **9-I.A. OVERVIEW**

This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

#### **GRHC MTW Flexibility**

For the public housing program, the GRHC will decrease the frequency of reexaminations from annual to biennial for all LIPH families.

### **9-I.C. SCHEDULING ANNUAL REEXAMINATIONS**

Generally, the GRHC will schedule annual/biennial reexaminations to coincide with the family's anniversary date. The GRHC will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date. *Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission). If the family transfers to a new unit, the GRHC will perform a new annual reexamination, and the anniversary date will be changed. The GRHC may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

#### **Notification of and Participation in the Annual/Biennial Reexamination Process**

Families generally are required to participate in an annual/biennial reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the GRHC to request a reasonable accommodation. Notification of annual reexamination interviews will be sent by first-class mail or placed on door and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview. If the family is unable to attend a scheduled interview, the family should contact the GRHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview, the GRHC will send a second notification with a new interview appointment time. If a family fails to attend two scheduled interviews without GRHC approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13. An advocate, interpreter, or other assistant may assist the family in the interview process.

### **9-I.D. CONDUCTING ANNUAL REEXAMINATIONS**

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a GRHC-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition. Any required documents or information that the family is unable to provide at the time of the interview must be provided within 15 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the family does not provide the required documents or information within the required

time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

#### **9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]**

The GRHC must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations. In determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with GRHC policies and 24 CFR 5.657(c) or 960.257(b) must be considered. Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The GRHC will look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for GRHC policies on when the COLA is applied.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The GRHC determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

**Step 2:** The GRHC takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the GRHC will use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the GRHC did not perform an interim or there have been changes since the last reexamination, the GRHC moves to Step 3.

**Step 3:** If there were changes in annual income not processed by the GRHC since the last reexamination, the GRHC must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes. If there are no

reported changes to an income source, the GRHC may use documentation of prior-year income to calculate the annual income. For example, the GRHC may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the GRHC notes discrepancies between EIV and what the family reports, the GRHC will follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the GRHC calculates income from different sources at annual reexamination using the above method.

## **9-I.E. OTHER CONSIDERATIONS**

### **Change in Unit Size**

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

### **Criminal Background Checks**

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

At the annual reexamination, the GRHC will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The GRHC will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the GRHC proposes to terminate assistance based on lifetime sex offender registration information, the GRHC will notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

### **Compliance with Community Service**

For families who include nonexempt individuals, the GRHC must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the GRHC's policies governing compliance with the community service requirement.

## **9-I.E. EFFECTIVE DATES**

As part of the annual reexamination process, the GRHC must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)]. In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance. If less than 30 calendar days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30 calendar day notice period. If the GRHC chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the GRHC, but will always allow for the 30 calendar day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16. In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date. If the GRHC chooses to schedule an annual reexamination for completion prior to the family's anniversary date

for administrative purposes, the effective date will be determined by the GRHC. If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing. Delays in reexamination processing are caused by the family if the family fails to provide information requested by the GRHC by the date specified, and this delay prevents the GRHC from completing the reexamination as scheduled.

## **PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257]**

### **9-II.A. OVERVIEW**

This part contains the GRHC's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the GRHC's policies for conducting annual updates of family composition for flat rent families.

### **9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION**

#### **Frequency of Reexamination**

For families paying flat rents, the GRHC will conduct a full reexamination of family income and composition once every 3 years. However, for flat rent families who become over-income, this policy will not apply. The GRHC will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

- If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, the GRHC will resume reexamination of family income and composition once every three years.
- If determination is as a result of an interim reexamination, the GRHC will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, the GRHC will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

#### **Reexamination Policies**

In conducting full reexaminations for families paying flat rents, the GRHC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

### **9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)**

As noted above, full reexaminations are conducted every three (3) years for families paying flat rents. In the years between full reexaminations, regulations require the GRHC to conduct a reexamination of family composition (“annual update”). The annual update process is similar to the annual reexamination process, except that the GRHC does not collect information about the family's income and expenses, unless the family requests the GRHC to determine the amount of income-based rent the family would pay and submits updated income information. The family's rent is not recalculated following an annual update. Although this process is referred to in HUD regulations as a “reexamination of family composition,” families are required to report any changes in family composition according to the GRHC's interim policies in Part III of this chapter. The purpose of the reexamination of family composition is to ensure that the size and type of unit in which the family is living is appropriate for the family's size and needs [PH Occ GB, p. 155].

#### **Scheduling**

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination. In scheduling the annual update, the GRHC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

### **Conducting Annual Updates**

Generally, the family will not be required to attend an interview for an annual update. However, if the GRHC determines that an interview is warranted, the family may be required to attend. Notification of the annual update will be sent by first-class mail or posting on door and will inform the family of the information and documentation that must be provided to the GRHC. The family will have 15 calendar days to submit the required information to the GRHC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The GRHC will accept required documentation by mail, by email, by fax, or in person. If the family's submission is incomplete, or the family does not submit the information in the required time frame, the GRHC will send a second written notice to the family. The family will have 15 calendar days from the date of the second notice to provide the missing information or documentation to the GRHC. If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

### **Change in Unit Size**

The GRHC may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies governing transfers are contained in Chapter 12.

### **Criminal Background Checks**

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual update process.

### **Compliance with Community Service**

For families who include nonexempt individuals, the GRHC must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)]. Policies governing compliance with community service requirements are contained in Chapter 11.



## **PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]**

### **9-III.A. OVERVIEW**

This part explains that HUD requires the family to report changes in family circumstances and requires the GRHC to conduct interim reexaminations in certain situations.

### **9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

The GRHC will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

#### **New Family Members Not Requiring Approval**

The family must inform the GRHC of the birth, adoption, or court-awarded custody of a child within 15 calendar days.

#### **New Family and Household Members Requiring Approval**

Families must request GRHC approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any twelve (12) month period and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the GRHC prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), the GRHC will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the GRHC. Exceptions will be made on a case-by-case basis. The GRHC will not approve the addition of a new family or household member unless the individual meets the GRHC’s eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II). If the GRHC determines that an individual does not meet the GRHC’s eligibility criteria or documentation requirements, the GRHC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial. The GRHC will make its determination within 15 calendar days of receiving all information required to verify the individual’s eligibility.

#### **Departure of a Family or Household Member**

If a family member ceases to reside in the unit, the family must inform the GRHC within 15 calendar days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent. If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the GRHC within 15 calendar days.

### **9-III.C. CHANGES AFFECTING INCOME OR EXPENSES**

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim reexaminations for changes in income or expenses may be scheduled either because the GRHC has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The GRHC will estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

#### **Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]**

A family may request an interim determination of family income for any change since the last determination. However, the GRHC may decline to conduct an interim reexamination if the GRHC estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The GRHC may set a lower threshold in GRHC policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the GRHC from setting a dollar-figure threshold.

However, while the GRHC has some discretion, HUD requires that the GRHC perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the GRHC will perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then GRHC will process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

The GRHC will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

#### **Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]**

##### ***Increases Less than 10 Percent***

The GRHC will not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

##### ***Increases 10 Percent or Greater***

The GRHC will conduct an interim reexamination of family income when the GRHC becomes aware that the family's adjusted income has changed by an amount that the GRHC estimates will result in an increase of 10 percent or more in adjusted income, only when the family has previously received an interim reduction during the same reexamination cycle; and

The GRHC will not conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

**Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]**

When the family reports an increase in both earned and unearned income at the same time, the GRHC will look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The GRHC will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the GRHC will not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the GRHC will perform an interim. If the change in earned income met the 10 percent threshold in this case, the GRHC would refer to GRHC policy to determine whether an interim was required.

**Cumulative Increases [Notice PIH 2023-27]**

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the GRHC will conduct an interim reexamination in accordance with GRHC policy.

**Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]**

Regardless of changes in adjusted income, in some circumstances the GRHC is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. The GRHC will conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When the GRHC makes an initial determination that a family is over-income during an interim reexamination, the GRHC will conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the GRHC to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

### ***Family Reporting***

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the GRHC of changes either orally or in writing. If the family provides oral notice, the GRHC will also require the family to submit the changes in writing.

Within 15 calendar days of the family reporting the change, the GRHC will determine whether the change will require an interim reexamination.

- If the change will not result in an interim reexamination, the GRHC will note the information in the tenant file but will not conduct an interim reexamination. The GRHC will send the family written notification within 15 calendar days of making this determination informing the family that the PHA will not conduct an interim reexamination.
- If the change will result in an interim reexamination, the GRHC will determine the documentation the family will be required to submit based on the type of change reported and GRHC policies in Chapter 7. The GRHC will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the GRHC. This time frame may be extended for good cause with GRHC approval. The GRHC will accept required documentation by mail, email, fax, or in person. The GRHC will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the GRHC determines that an interview is warranted, the family may be required to attend.

### **9-III.D. EFFECTIVE DATES**

#### **Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]**

If the family reports a change in family income or composition timely in accordance with GRHC policies:

- For rent increases, the GRHC must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

#### **Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]**

If the family failed to report a change in family income or composition timely in accordance with GRHC policies:

- For rent increases, the GRHC will implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the GRHC will implement the change no later than the first rent period following completion of the interim reexamination.

In applying a retroactive change in rent as the result of an interim reexamination, the GRHC will clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the GRHC will apply the decrease the first of the month following completion of the interim reexamination.

However, the GRHC will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PHA management operations. The GRHC will decide to apply decreases retroactively on a case-by-case basis.

When the GRHC applies the results of interim decreases retroactively, the GRHC will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with GRHC policies.

#### **9-III.D. PROCESSING THE INTERIM REEXAMINATION**

This section discusses policies related to how the family must report changes, and the time frames for providing information the GRHC may require.

##### **Method of Reporting**

The family may notify the GRHC of changes either orally or in writing. If the family provides oral notice, the GRHC may also require the family to submit the changes in writing. Generally, the family will not be required to attend an interview for an interim reexamination. However, if the GRHC determines that an interview is warranted, the family may be required to attend. Based on the type of change reported, the GRHC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 15 calendar days of receiving a request from the GRHC. This time frame may be extended for good cause with GRHC approval. The GRHC will accept required documentation by mail, by email, by fax, or in person.

##### **Effective Dates**

If the tenant rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.
- If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the tenant rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

## **PART IV: RECALCULATING TENANT RENT**

### **9-IV.A. OVERVIEW**

This part explains the requirement for GRHCs to recalculate tenant rent, and to provide notice to the family of these changes.

### **9-IV.B. CHANGES IN UTILITY ALLOWANCES (24 CFR 965.507, 24 CFR 966.4)**

The tenant rent calculations must reflect any changes in the GRHC's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

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

### **9-IV.C. NOTIFICATION OF NEW TENANT RENT**

The public housing lease requires the GRHC to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)].

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

### **9-IV.D. DISCREPANCIES**

When errors resulting in the overpayment or underpayment of rent are discovered, they will be corrected in accordance with the policies contained in Chapter 13.

## **PART V: NON-INTERIM REEXAMINATION TRANSACTIONS**

### **Notice PIH 2023-27**

Families may experience changes within the household that do not trigger an interim reexamination under GRHC policy and HUD regulations but which HUD still requires the GRHC to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, the GRHC will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

The GRHC will make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

**EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION****Example 1: Calculating Annual Income at Annual Reexamination Using EIV**

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the GRHC since the 3/1/2023 annual reexamination. The SSA-published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

|                        |                                      |
|------------------------|--------------------------------------|
| <u>Ruby:</u>           | <u>Georgia:</u>                      |
| <u>Wages: \$30,000</u> | <u>SSI: \$10,980 (\$915 monthly)</u> |

The EIV report pulled on 12/15/2023

|   |                            |
|---|----------------------------|
| Ruby:   | Georgia:                   |
| Wages Total: \$33,651                           | SSI Total: \$10,980        |
| Quarter 3 of 2023: \$8,859 (City Public School) | 2023 benefit \$915 monthly |
| Quarter 2 of 2023: \$8,616 (City Public School) |                            |
| Quarter 1 of 2023: \$8,823 (City Public School) |                            |
| Quarter 4 of 2022: \$7,353 (City Public School) |                            |

Income Reported on Reexamination Application

|  |  |
|--|--|
| <u>Ruby:</u>   | <u>Georgia:</u>                            |
| <u>Wages at City Public School: \$32,000</u>             | <u>SSI benefits: \$10,980 (no changes)</u> |
| <u>(switched jobs but no permanent change to amount)</u> |  |

Calculating Ruby's wages:

Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.

Calculating Georgia's SSI benefit:

Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:

COLA: \$64.05 (\$915 x 0.07)

New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)

If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.

Summary of Annual Income (as reported on the HUD-50058)



|  |                                 |
|--|---------------------------------|
| Ruby (Head of Household):                  | Georgia (Other Youth Under 18): |
| Other Wage: \$33,651                       | SSI: \$11,748                   |
| Myers Family Total Annual Income: \$45,399 |                                 |

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:  
Family Disagrees with EIV**

|  |
|--|
| Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work. |
| <u>5/1/2023 Annual Reexamination</u>   |
| <u>Wages: \$28,000</u>   |

The EIV report pulled on 1/15/2024

Wages Total: \$18,271  
Quarter 3 of 2023: \$2,500 (Viking Bakery)  
Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)  
Quarter 2 of 2023: \$1,300 (Sasha's Sweets)  
Quarter 2 of 2023: \$584 (Larry's Concessions)  
Quarter 2 of 2023: \$2,401 (Viking Bakery)  
Quarter 1 of 2023: \$6,500 (Sasha's Sweets)  
Quarter 4 of 2022: \$600 (Sasha's Sweets)  
SS/SSI: No history of benefits

|  |
|--|
| <u>Income Reported on Reexamination Application</u>  |
| <u>Wages: \$0 (permanent change; no longer receiving)</u>  |
| <u>Social Security: \$14,400 (\$1,200 monthly)</u>   |
| Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024. |
| <u>Calculating Wages and SS Benefit</u>  |
| Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)   |
| Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.  |
| Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at   |

|   |
|---|
| all.<br>Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages. |
| <u>Summary of Annual Income (as reported on the HUD-50058)</u>  |
| Paul (Head of Household): \$14,400 (SS)<br>Hewson Family Total Annual Income: \$14,400                        |

### Example 3: Calculating Annual Income at Annual Reexamination

|   |   |
|---|---|
| Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA. |   |
| <u>Last reexamination – 11/1/2023 Annual Reexamination</u>  |   |
| <u>Samantha:</u><br>Business income: \$28,000<br>VA disability pension: \$12,000<br>Child support: \$2,400  | <u>Fergus:</u><br>Wages: \$8,250<br>Other non-wage income: \$3,000 (Go Fund Me online fundraiser) |
| <u>The EIV report pulled on 9/16/2024</u>   |   |

|   |   |
|---|---|
| Samantha:<br>Wages Total: \$0 (no wage data reported since Q1 2023) | Fergus:<br>Wages Total: \$8,600<br>Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)<br>Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)<br>Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)<br>Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)<br>Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus) |
|---|---|

|  |                                  |
|--|----------------------------------|
| <u>Current Family Circumstances: Income Reported on Reexamination Application</u><br>Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on GRHC's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination. |                                  |
| <u>Samantha:</u><br>Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)<br>VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)<br>Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)  | <u>Fergus:</u><br>Wages: \$6,000 |

#### Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

#### Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

#### Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

#### Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the GRHC will verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the

GRHC will do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire’s Healthcare Supplies in accordance with HUD’s verification hierarchy and local policies.

The GRHC determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The GRHC verified Fergus was no longer employed at Claire’s Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

| <u>Calculating Fergus’ Other Non-Wage Income</u>   |                                     |
|--|-------------------------------------|
| Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD– 50058).   |                                     |
| Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.   |                                     |
| Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a “Go Fund Me” online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn’t solicited funds online and doesn’t plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3. |                                     |
| <u>Summary of Annual Income (as reported on the HUD-50058)</u>   |                                     |
| Samantha (Head of Household):<br>Own business: \$18,000<br>Pension: \$12,300<br>Child support: \$1,200   | Fergus (Co-head):<br>Wages: \$9,360 |
| Poole Family Total Annual Income: \$40,860   |                                     |

## **Chapter 10**

### **PETS**

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

#### **INTRODUCTION**

The GRHC's pet policies must comply with applicable state and local public health, animal control, and animal cruelty laws and regulations. Since these laws and regulations vary from community to community, pet policies must necessarily be tailored to meet local conditions. Pet policies may also vary by development.

This chapter describes HUD regulations and GRHC policies related to pet ownership as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals, including service and support animals, and pets, and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

#### **Pet Ownership Regulations**

There are two sets of HUD regulations concerning pets in public housing. The first can be found at 24 CFR 5 Subpart C and contain regulations for the ownership of pets in elderly, disabled, and mixed population developments. The regulations for pets in general occupancy developments can be found at 24 CFR 960, Subpart G. Generally, the regulations governing pets in elderly and disabled developments are more specific.

#### **Policies in the GRHC LIPH ACOP**

While the regulations differ depending upon the type of development, GRHC has established similar pet policies for both types of developments [PH OCC GB, p. 179]. This approach establishing “matching” pet policies, when the regulations allow for it, contributes to ease of administration, and reduces confusion for residents and staff members.

#### **State and Local Laws and Codes**

Pet policies must not conflict with state or local laws or regulations.

## **PART I: ASSISTANCE ANIMALS**

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705; Notice FHEO 2020-01]

### **10-I.A. OVERVIEW**

This part provides information about the definition of assistance animals, including service and support animals, and the GRHC's treatment of such animals. It should be noted that assistance animals include animals that provide emotional support to persons with disabilities who have a disability-related need for such support. Assistance animals, including service and support animals, are not pets. GRHC may not apply or enforce any pet policies against assistance animals [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

### **10-I.B. APPROVAL OF ASSISTANCE ANIMALS [Notice FHEO 2020-01]**

This section contains the GRHC's policies for the approval of assistance animals, including service animals and support animals. The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health and safety of other individuals or would result in substantial physical damage to the property of others. The GRHC may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure). The GRHC has the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)]. As an example, permission would not be given for an assistance animal that is not allowed under local animal laws, such as a tiger. For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services. For an animal to be excluded from the pet policy and be considered a support animal, there must be a person with disabilities in the household, there must be a disability-related need for the animal, and the family must request and the GRHC approve a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

### **10-I.C. CARE AND HANDLING**

Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals. A resident may do this on his or her own or with the assistance of family, friends, volunteers, or service providers. Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws. Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents. When a resident's care or handling of an assistance animal violates these policies, the GRHC will consider whether the violation could be reduced or eliminated by reasonable accommodation. If the GRHC determines that no such accommodation can be provided, the GRHC may withdraw the approval of a particular assistance animal.

## **PART II: PET POLICIES FOR ALL DEVELOPMENTS**

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

### **10-II.A. OVERVIEW**

This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

### **10-II.B. MANAGEMENT APPROVAL OF PETS**

#### **Registration of Pets**

Pets must be registered with the GRHC before they are brought onto the premises. Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date. Pets will not be approved to reside in a unit until completion of the registration requirements.

#### **Refusal to Register Pets**

The GRHC will refuse to register a pet if:

- The pet is not a *common household pet* as defined in Section 10-II.C. below
- Keeping the pet would violate any pet restrictions listed in this policy
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order
- The GRHC reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the GRHC refuses to register a pet, written notification will be sent to the pet owner within 15 calendar days of the GRHC'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 the GRHC's grievance procedures.

#### **Pet Agreement**

Residents who have been approved to have a pet must enter into a pet agreement with the GRHC, or the approval of the pet will be withdrawn. The pet agreement is the resident's certification that he or she has received a copy of the GRHC's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them. The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the GRHC's pet policy and applicable house rules may result in the withdrawal of GRHC approval of the pet or termination of tenancy.

### **10-II.C. STANDARDS FOR PETS [24 CFR 960.705(b); 5.318]**

This part of the ACOP contains the GRHC's policies governing the size, type, and number of pets allowed, as well as requirements for licensing and spaying or neutering pets.

**Definition of “Common Household Pet”**

**Common household pet** means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes. The following animals are not considered common household pets:

- Reptiles
- Rodents
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

**Pet Restrictions**

The following animals are not permitted:

- Any animal whose adult weight will exceed 20 pounds and taller than 18 inches.
- Dogs of the pit bull, rottweiler, chow, or boxer breeds
- Any animal not permitted under state or local law or code

**Number of Pets**

Residents may own a maximum of two (2) pets, only one (1) of which may be a dog. In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to ten (10) gallons. Such a tank or aquarium will be counted as one (1) pet.

**Other Requirements**

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 calendar days of the pet reaching six (6) months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary. Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident’s annual reexamination.

**10-II.D. PET RULES**

As noted earlier in this chapter, the GRHC has broad discretion in establishing pet policies. Different or varying guidelines may be appropriate locally, and pet policies must comply with applicable local laws. (*PH Guidebook*, p. 183)

**Pet Area Restrictions**

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be always under the control of the resident or other responsible individual. Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit. Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building. Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

**Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH GB, p. 182]**

Except for common areas as described in the previous policy, the GRHC has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the GRHC has



not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

### **Cleanliness**

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by the GRHC. The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to always maintain the unit in a sanitary condition. Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- Litter shall not be disposed of by being flushed through a toilet. Litter boxes shall be kept inside the resident's dwelling unit.

### **Alterations to Unit**

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited.

### **Noise**

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

### **Pet Care**

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet. Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage GRHC property. No animals may be tethered or chained inside or outside the dwelling unit at any time.

### **Responsible Parties**

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet. A resident who cares for another resident's pet must notify the GRHC and sign a statement that they agree to abide by all of the pet rules.

### **Pets Temporarily on the Premises**

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals. This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations and approved by the GRHC.

### **Pet Rule Violations**

All complaints of cruelty and all dog bites will be referred to animal control or applicable agency for investigation and enforcement. If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served. The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the pet owner has 15 calendar days from the effective date of the service of notice to

- correct the violation or make written request for a meeting to discuss the violation;
- That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting; and
- That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

### **Notice for Pet Removal**

If the pet owner and the GRHC are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the GRHC, the GRHC may serve notice to remove the pet. The notice will contain:

- A brief statement of the factual basis for the GRHC's determination of the pet rule that has been violated
- The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

### **Pet Removal**

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner. If the responsible party is unwilling or unable to care for the pet, or if the GRHC after reasonable efforts cannot contact the responsible party, the GRHC may contact the appropriate state or local agency and request the removal of the pet.

### **Termination of Tenancy**

The GRHC may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified
- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

### **Emergencies**

The GRHC will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals. If it is necessary for the GRHC to place the pet in a shelter facility, the cost will be the responsibility of the pet owner. If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

## **PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS**

[24 CFR 5.318(d)]

### **10-III.A. OVERVIEW**

This part contains the GRHC's policies governing pet deposits for residents of elderly, disabled and mixed population developments. The GRHC is not permitted to charge a "non-refundable nominal fee" for pet-related operating costs in these developments. Other pet-related fees and charges are also addressed in this part.

### **10-III.B. PET DEPOSITS [24 CFR 5.318(d)(1) and (d)(3)]**

#### **Payment of Deposit**

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is the higher of the family's total tenant payment or \$50.00 and prefers to be paid in full before the pet is brought on the premises. The GRHC will allow installments over a three (3) month period.

#### **Refund of Deposit**

The GRHC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 calendar days of move-out or removal of the pet from the unit. The resident will be billed for any amount that exceeds the pet deposit. The GRHC will provide the resident with a written list of any charges against the pet deposit within 15 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the GRHC will provide a meeting to discuss the charges.

### **10-III.C. OTHER CHARGES**

#### **Pet-Related Damages During Occupancy**

All reasonable expenses incurred by the GRHC as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the project
- The expense of flea elimination shall also be the responsibility of the resident.
- If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.
- Charges for pet-related damage are not part of rent payable by the resident.

#### **Pet Waste Removal Charge**

A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy. Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 15 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the GRHC may not take action for nonpayment of the charge until the conclusion of the grievance process. Charges for pet waste removal are not part of rent payable by the resident.

## **PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS**

[24 CFR 960, Subpart G]

### **10-IV.A. OVERVIEW**

The regulations governing pet deposits and fees in general occupancy developments are different from the regulations for elderly/disabled developments. The policies in this part apply to all residents of general occupancy developments, including elderly and disabled families.

### **10-IV.B. PET DEPOSITS**

#### **Payment of Deposit**

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is the higher of the family's total tenant payment or \$50.00 and prefers to be paid in full before the pet is brought on the premises. The GRHC will allow installments over a three (3) month period.

#### **Refund of Deposit**

The GRHC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The GRHC will provide the resident with a written list of any charges against the pet deposit within 15 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the GRHC will provide a meeting to discuss the charges.

### **10-IV.C. NON-REFUNDABLE NOMINAL PET FEE**

The GRHC requires pet owners to pay a non-refundable nominal pet fee.

This fee is intended to cover the reasonable operating costs to the project relating to the presence of pets. Reasonable operating costs to the project relating to the presence of pets include, but are not limited to:

- Landscaping costs
- Pest control costs
- Insurance costs
- Clean-up costs

The pet fee of \$10.00 will be billed on a monthly basis, and payment will be due 15 calendar days after billing. Charges for the non-refundable pet fee are not part of rent payable by the resident.

#### **10-IV.D. OTHER CHARGES**

##### **Pet-Related Damages During Occupancy**

All reasonable expenses incurred by the GRHC as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit Fumigation of the dwelling unit
- Repairs to common areas of the project
- The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy. Charges for pet-related damage are not part of rent payable by the resident.

##### **Pet Waste Removal Charge**

A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy. Such charges will be due and payable 15 calendar days after billing. Charges for pet waste removal are not part of rent payable by the residents.

## **Chapter 11**

### **COMMUNITY SERVICE**

#### **INTRODUCTION**

This chapter explains HUD regulations requiring GRHCs to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and GRHC policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: GRHC Implementation of Community Service. This part provides GRHC policy regarding GRHC implementation and program design.

## **PART I: COMMUNITY SERVICE REQUIREMENT 11-I.A. OVERVIEW**

This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

### **11-I.B. REQUIREMENTS**

Each adult resident is required to provide community service or participate in economic self-sufficiency activities 8 hours per month [24 CFR 960.603(a)].

#### **Definitions**

##### **Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]**

The GRHC will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

##### **Community Service [24 CFR 960.601(b), Notice PIH 2015-12]**

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

##### **Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]**

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.

##### **Work Activities [42 U.S.C. 607(d)]**

GRHC will not pose specific language for work activities.

##### **Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016-06]**

The GRHC will provide the family with a copy of the Community Service Policy, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self-certification forms are subject to review by the GRHC. On an annual basis, at the time of lease renewal, the GRHC will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform, and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

### **11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]**

#### **Annual Determination**

##### **Determination of Exemption Status**

At least 60 calendar days prior to lease renewal, the GRHC will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless

the family reports a change or the GRHC has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination. Upon completion of the verification process, the GRHC will notify the family in accordance with the policy in Section 11-I.B., Notification Requirements.

### **Determination of Compliance**

Approximately 60 calendar days prior to the end of the lease term, the GRHC will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 15 calendar days to submit the GRHC required documentation form(s). If the family fails to submit the required documentation within the required timeframe, or GRHC approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

### **Change in Status Between Annual Determinations**

#### ***Exempt to Nonexempt Status***

If an exempt individual becomes nonexempt during the twelve-month lease term, it is the family's responsibility to report this change to the GRHC within 15 calendar days. Within 15 calendar days of a family reporting such a change, or the GRHC determining such a change is necessary, the GRHC will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed. The effective date of the community service requirement will be the first of the month following 30 day notice.

#### ***Determination of Initial Compliance***

When an adult family member becomes subject to community service, he or she must perform eight (8) hours of community service for the months he or she is subject to the requirement before the end of the lease term (anniversary date).

Example 1: Alberto Jones turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date)

Example 2: Lisa Dewhurst leaves her job on 9/20/14 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/14, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/15.

Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

### **Nonexempt to Exempt Status**

If a nonexempt person becomes exempt during the twelve-month lease term, it is the family's



responsibility to report this change to the GRHC within 15 calendar days. Any claim of exemption will be verified by the GRHC in accordance with the policy at 11-I.D.

#### **Documentation and Verification of Exemption Status.**

Within 15 calendar days of a family reporting such a change, or the GRHC determining such a change is necessary, the GRHC will provide the family written notice that the family member is no longer subject to the community service requirement, if the GRHC is able to verify the exemption. The exemption will be effective immediately.

### **11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]**

#### **Documentation and Verification of Exemption Status**

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found. The GRHC will provide a completed copy to the family and will keep a copy in the tenant file. The GRHC will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7. The GRHC makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the GRHC's determination, s/he can dispute the decision through the GRHC's grievance procedures (see Chapter 14).

#### **Documentation and Verification of Compliance**

Each individual who is subject to the community service requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed. Families will be required to submit the documentation to the GRHC, upon request by the GRHC, at least annually. If the GRHC has reasonable cause to believe that the certification provided by the family is false or fraudulent, the GRHC has the right to require additional third-party verification.

### **11-I.E. NONCOMPLIANCE**

#### **Noncompliant Residents**

This section explains that violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve-month lease term, but not for termination of tenancy during the twelve (12) month lease term. The notice of noncompliance will be sent at least 45 calendar days prior to the end of the lease term. The family will have 15 calendar days from the date of the notice of noncompliance to enter into a written work-out agreement to cure the noncompliance over the twelve (12) month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing. If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has vacated the unit before the GRHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them. If the family does not request a grievance hearing or does not take either corrective action required by the notice of noncompliance within the required 15 calendar day timeframe, the GRHC will terminate tenancy in accordance with the policies in Section 13-IV.D.

**Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]**

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 15 calendar days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing. If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the GRHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them. If the family does not request a grievance hearing or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

## **PART II: IMPLEMENTATION OF COMMUNITY SERVICE**

### **11-II.A. OVERVIEW**

This part provides GRHC policy regarding GRHC implementation and program design.

### **11-II.B. GRHC Implementation of Community Service**

The GRHC will notify its insurance company if residents will be performing community service at the GRHC. In addition, the GRHC will ensure that the conditions under which the work is to be performed are not hazardous. If a disabled resident certifies that s/he is able to perform community service, the GRHC will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

### **11-II.C. GRHC Program Design**

The GRHC will attempt to provide the broadest choice possible to residents as they choose community service activities. The GRHC's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. The GRHC will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program. The GRHC will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the GRHC will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations. Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the GRHC Plan. The GRHC will provide in-house opportunities for volunteer work or self-sufficiency programs when possible. When the GRHC has a ROSS program, a ROSS Service Coordinator, or an FSS program, the GRHC will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with GRHC coordinators will satisfy community service activities and GRHC coordinators will verify community service hours within individual monthly logs.

## **Chapter 12**

### **TRANSFER POLICY**

#### **INTRODUCTION**

This chapter explains the GRHC's transfer policy, based on HUD regulations, HUD guidance, and GRHC policy decisions.

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: GRHC Required Transfers. This part describes types of transfers that may be required by the GRHC, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

## **PART I: EMERGENCY TRANSFERS**

### **12-I.A. OVERVIEW**

This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs

### **12-I.B. EMERGENCY TRANSFERS**

The following are considered emergency circumstances warranting an immediate transfer of the tenant or family:

- Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak, no heat in the building during the winter, no water, toxic contamination, and serious water leaks.
- A verified incident of domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may be established through documentation outlined in section 16-VII.D. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP), although, the GRHC may waive this requirement in order to expedite the transfer process.

The GRHC will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. The GRHC will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The GRHC defines *immediately available* as a vacant unit that is ready for move-in within a reasonable period of time, not to exceed 30 calendar days. If an internal transfer to a safe unit is not immediately available, the GRHC will assist the resident in seeking an external emergency transfer either within or outside the GRHC's programs. The GRHC has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

### **12-I.C. EMERGENCY TRANSFER PROCEDURES**

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the GRHC will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the GRHC will transfer the resident to the first available and appropriate unit after the temporary relocation. Emergency transfers that arise due to maintenance conditions are mandatory for the tenant. If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, or stalking, the GRHC will follow procedures outlined in Exhibit 16-4.

### **12-I.D. COSTS OF TRANSFER**

The GRHC will bear the reasonable costs of temporarily accommodating the tenant and of long-term transfers, if any, due to emergency conditions. The reasonable cost of transfers includes the cost of packing, moving, and unloading. The GRHC may establish a moving allowance based on the typical costs in the community of packing, moving, and unloading and reimburse the family for eligible out-of-pocket moving expenses up to the GRHC's established moving allowance; choose to complete the move, or make arrangements and pay for the move.

## **PART II: GRHC REQUIRED TRANSFERS**

### **12-II.A. OVERVIEW**

This part describes types of transfers that may be required by the GRHC, notice requirements, and payment of transfer costs.

### **12-II.B. TYPES OF GRHC REQUIRED TRANSFERS**

The types of transfers that may be required by the GRHC, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter. Transfers required by the GRHC are mandatory for the tenant.

#### **Transfers to Make an Accessible Unit Available**

When a non-accessible unit becomes available, the GRHC will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The GRHC may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

#### **Occupancy Standards Transfers**

The GRHC will transfer a family when the family size has changed, and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied. For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

- *Overcrowded*: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.
- *Over-housed*: the family no longer qualifies for the bedroom size in which they are living based on the GRHC's occupancy standards as described in Section 5-I.B.

The GRHC may transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the GRHC's occupancy standards, when the GRHC determines there is a need for the transfer. The GRHC may elect not to transfer an over-housed family in order to prevent vacancies. A family that is required to move because of family size will be advised by the GRHC that a transfer is necessary, and that the family has been placed on the transfer list. Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

#### **Demolition, Disposition, Revitalizations, or Rehabilitation Transfers**

The GRHC will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The GRHC's relocation plan may or may not require transferring affected families to available public housing units. If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list. In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

**12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]**

This section makes it clear that the GRHC required transfer is an adverse action requiring appropriate notice. To notify the tenant of the specific grounds for any proposed adverse action by the GRHC. (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.)

**12-II.D. COST OF TRANSFER**

The GRHC will bear the reasonable costs of transfers that the GRHC requires, except that residents will be required to bear the cost of occupancy standards transfers. The reasonable cost of transfers includes the cost of packing, moving, and unloading. The GRHC may establish a moving allowance based on the typical costs in the community of packing, moving, and unloading and reimburse the family for eligible out-of-pocket moving expenses up to the GRHC's established moving allowance; choose to complete the move, or make arrangements and pay for the move.

## **PART III: TRANSFERS REQUESTED BY TENANTS**

### **12-III.A. OVERVIEW**

This part describes types of transfers, eligibility requirements, creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development, reexamination, and cost.

### **12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS**

The types of requests for transfers that the GRHC will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the GRHC's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the GRHC.

The GRHC will consider the following as high priority transfer requests:

- When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature.
- When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the GRHC's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime.
- When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

The GRHC will consider the following as regular priority transfer requests:

- When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation, and public transportation is not adequate

Transfers requested by the tenant are considered optional for the tenant.

### **12-III.C. ELIGIBILITY FOR TRANSFER**

Except where reasonable accommodation is being requested, the GRHC will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff
- Owe no back rent or other charges, or have a pattern of late payment
- Have no housekeeping lease violations or history of damaging property
- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)
- A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the GRHC's advantage to make the transfer. Exceptions will also be made when the GRHC determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP. Tenants who are not in good standing may still request an emergency transfer under VAWA. If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.



#### **12-III.D. SECURITY DEPOSITS**

When a family transfers from one unit to another, the GRHC will transfer their security deposit to the new unit. If the tenant moves into a unit that requires an increased security deposit, the tenant will be responsible for paying the difference. The tenant will be billed for any maintenance or other charges due for the “old” unit.

#### **12-III.E. COST OF TRANSFER**

The resident will bear all of the costs of tenant requested transfers. However, the GRHC will bear the transfer costs when the transfer is done as a reasonable accommodation.

#### **12-III.F. HANDLING OF REQUESTS**

Residents requesting transfer to another unit or development will be required to submit a written request for transfer. To request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP). The GRHC may, on a case-by-case basis, waive this requirement and accept a verbal request to expedite the transfer process. If the GRHC accepts an individual’s statement, the GRHC will document acceptance of the statement in the individual’s file in accordance with 16-VII.D. of this ACOP. Transfer requests under VAWA will be processed in accordance with the GRHC’s Emergency Transfer Plan (Exhibit 16-3). In case of a reasonable accommodation transfer, the GRHC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the GRHC will consider the transfer request any time the resident indicates that an accommodation is needed whether a formal written request is submitted. The GRHC will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VII.D of this ACOP. If the family does not meet the “good record” requirements under Section 12-III.C, the manager will address the problem and, until resolved, the request for transfer will be denied. The GRHC will respond within 15 calendar days of the submission of the family’s request. If the GRHC denies the request for transfer, the family will be informed of its grievance rights.

## **PART IV: TRANSFER PROCESSING**

### **12-IV.A. OVERVIEW**

This part describes the transfer waitlist and offer policy, prioritizing transfer requests, the unit offer policy, examples of good cause, Deconcentration, transferring to another development and reexamination.

### **12-IV.B. TRANSFER LIST**

The GRHC will maintain a transfer list by site and ensure that transfers are processed in the correct order and that procedures are uniform across all properties. Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case-by-case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list. Transfers will be processed in the following order on the waiting list:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other GRHC-required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date. With the approval of the executive director, the GRHC may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis. Demolition and renovation transfers will gain the highest priority as necessary to allow the GRHC to meet the demolition or renovation date. Transfers will take precedence over waiting list admissions.

### **12-IV.C. TRANSFER OFFER POLICY**

Residents will receive one offer of a transfer, when good cause is established. When the transfer is required by the GRHC, the refusal of that offer without good cause will result in lease termination. When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases, the family must wait six months to reapply for another transfer.

### **12-IV.D. GOOD CAUSE FOR UNIT REFUSAL**

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

- The family demonstrates to the GRHC's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the GRHC's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D of this ACOP.

Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

The GRHC will require documentation of good cause for unit refusals.

#### **12-IV.E. DECONCENTRATION**

In accordance with 24 CFR, Part 903, Subpart A, the Grand Rapids Housing Commission has no general occupancy (family) public housing developments covered by the deconcentration rule.

#### **12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS**

The reexamination date will be changed to the first of the month in which the transfer took place.

## **Chapter 13**

### **LEASE TERMINATIONS**

#### **INTRODUCTION**

This chapter contains the GRHC's policies for voluntary and mandatory termination of tenancy. These policies are contained in four parts:

Part I: Termination by Tenant. This part discusses the GRHC requirements for voluntary termination of the lease by the family.

Part II: Termination by GRHC – Mandatory. This part describes circumstances when termination of the lease by the GRHC is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by GRHC – Other Authorized Reasons. This part describes the GRHC's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes GRHCs to terminate. For some of these options HUD requires the GRHC to establish policies and lease provisions for termination, but termination is not mandatory. For other options the GRHC has full discretion whether to consider the options as just cause to terminate if the GRHC policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the GRHC may consider in lieu of termination, and the criteria the GRHC will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and GRHC policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination

## **PART I: TERMINATION BY TENANT**

### **13-I.A. OVERVIEW**

This part discusses the GRHC requirements for voluntary termination of the lease by the family.

### **13-I.B. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]**

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. If a family desires to move and terminate their tenancy with the GRHC, they must give at least 30 calendar days advance written notice to the GRHC of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control the GRHC, at its discretion, may waive the 30-day requirement. The notice of lease termination must be signed by the head of household, spouse, or cohead.

## **PART II: TERMINATION BY GRHC – MANDATORY**

### **13-II.A. OVERVIEW**

This part describes circumstances when termination of the lease by the GRHC is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.

### **13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]**

The GRHC must terminate tenancy if any family member fails to sign and submit any consent form required for reexamination.

### **13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]**

The GRHC must terminate tenancy if the family fails to submit required documentation concerning any family member's citizenship or eligible immigration status within required timeframes; USCIS primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or a family member, as determined by the GRHC, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

### **13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), and Notice PIH 2018-24]**

The GRHC must terminate assistance if a resident family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number. However, if the family is otherwise eligible for continued program assistance, and the GRHC determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the GRHC may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the GRHC determined the family to be noncompliant. The GRHC will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

### **13-II.E. FAILURE TO ACCEPT THE GRHC'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]**

The GRHC must terminate the lease if the family fails to accept the GRHC's offer of a lease revision to an existing lease.

### **13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]**

The GRHC must immediately terminate the lease if the GRHC determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

### **13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]**

Should GRHC discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the GRHC must immediately terminate assistance for the household member. In this situation, the GRHC must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the GRHC must terminate assistance for the household.

### **13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]**

The GRHC is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11

### **13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-4]**

The GRHC will terminate the lease of a sole family household immediately upon notification of death of the resident.

### **13-II.J. OVER\_INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]**

In the public housing program, an *over-income family* is defined as a family whose income exceeds the over-income limit for 24 consecutive months. The GRHC owns or operates fewer than 250 public housing units and may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, the PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.

For families whose income exceeds the over-income limit for 24 consecutive months, the GRHC will not terminate the family's tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public housing lease in accordance with the continued occupancy policies below.

#### **Over-Income Limit [Notice PIH 2023-03]**

The GRHC will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

| <b>Family Size</b>       | <b>1</b> | <b>2</b> | <b>3</b> | <b>4</b> | <b>5</b> | <b>6</b> | <b>7</b> | <b>8</b> |
|--------------------------|----------|----------|----------|----------|----------|----------|----------|----------|
| <b>Over-Income Limit</b> | 79,560   | 90,960   | 102,360  | 113,640  | 122,760  | 131,880  | 141,000  | 150,120  |

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

### **Decreases in Income [24 CFR 960.507(c)(4)]**

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with GRHC policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The GRHC will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

### **Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]**

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, the GRHC will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the GRHC's over-income policies. The notice will state that the family may request a hearing if the family disputes the GRHC's determination in accordance with GRHC policies in Chapter 14. The GRHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

### **Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]**

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 15 calendar days of the determination, the GRHC will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the GRHC's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the GRHC's determination in accordance with GRHC policies in Chapter 14. The GRHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

### **Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27]**

If a family's income exceeds the applicable over-income limit for 24 consecutive months, the GRHC will notify the family in writing of the determination within 15 calendar days of the date of the determination. The GRHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments. The notice will state that the family will be charged the alternative non-public housing rent in accordance with GRHC continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and the GRHC no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. The GRHC will permit an over-income family to execute a lease beyond this time period, but before termination



of tenancy, if the over-income family pays the GRHC the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. The GRHC will not provide such families with hearing or grievance rights.

The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, the GRHC may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law. Upon execution of the lease, the tenant will be required to pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the GRHC in accordance with HUD regulations. The GRHC will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law. If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program.**PART III: TERMINATION BY GRHC – OTHER AUTHORIZED REASONS**

### **13-III.A. OVERVIEW**

This part describes the GRHC's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes GRHCs to terminate. For some of these options HUD requires the GRHC to establish policies and lease provisions for termination, but termination is not mandatory. For other options the GRHC has full discretion whether to consider the options as just cause to terminate if the GRHC policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the GRHC may consider in lieu of termination, and the criteria the GRHC will use when deciding what actions to take.

### **13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]**

#### ***Definitions [24 CFR 5.100]***

Definitions can be found in the glossary at the end of this document.

#### **Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]**

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination. The GRHC will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

#### **Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]**

The lease must provide that the GRHC may evict a family when the GRHC determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. The GRHC will terminate the lease when the GRHC determines that a household member is illegally using a drug or the GRHC determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous three months.

#### **Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]**

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including the GRHC management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy. The GRHC will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including GRHC management staff residing on the premises) or by persons residing in the immediate vicinity of the premises. *Immediate vicinity* means within a three-block radius of the premises.

#### **Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]**

The GRHC must establish standards that allow termination of tenancy if the GRHC 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.

The GRHC will terminate the lease if the GRHC determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous three months.

#### **Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]**

The GRHC must establish standards that allow termination of tenancy if the GRHC determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers. The GRHC will terminate the lease if the GRHC determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

#### **Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]**

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are serious or repeated violations, and grounds for termination. These violations can be divided into two categories:

##### *Failure to make payments due under the lease*

The GRHC will terminate the lease for the following violations of tenant obligations under the lease:

- Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due).

- Repeated late payment of rent or other charges. Four late payments within a 12-month period shall constitute a repeated late payment.

*Failure to fulfill the following household obligations as specified in the regulations*

The GRHC will terminate the lease for the following violations as specified in the regulations:

- Assigning the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- Providing accommodation for boarders or lodgers.
- Not using 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.
- Not abiding by necessary and reasonable regulations promulgated by the GRHC 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.
- Failing to comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety.
- Not keeping 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.
- Not disposing of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner.
- Not using only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators.
- Not refraining from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project.
- Not paying reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest.
- Not acting, 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.

**13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]**

HUD authorizes the GRHC to terminate the lease for "other good cause"

**Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]**

The Violence against Women Reauthorization Act of 2013 explicitly prohibits GRHCs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking as "other good cause" for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [24 CFR 5.2005(c)(1)]. The GRHC will terminate the lease for the following reasons.

- ***Persons subject to sex offender registration requirement.*** If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.
  - Discovery of facts after admission to the program that would have made the tenant ineligible.
  - Discovery of materially false statements or fraud by the tenant in connection

- with an application for assistance or with a reexamination of income.
- Failure to furnish such information and certifications regarding family composition and income necessary for the GRHC to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size.
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the GRHC that such a dwelling unit is available.
- Failure to permit access to the unit by the GRHC after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists.
- Failure to promptly inform the GRHC of the birth, adoption, or court-awarded custody of a child. In such a case, promptly means within 15 calendar days of the event.
- Failure to abide by the provisions of the GRHC pet policy.
- If the family has breached the terms of a repayment agreement entered into with the GRHC.
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.
- If a household member has engaged in or threatened violent or abusive behavior toward GRHC personnel
  - *Abusive or violent behavior towards GRHC personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Family Absence from Unit [24 CFR 982.551(i)] Absence in this context means that no member of the family is residing in the unit. The family must supply any information or certification requested by the GRHC to verify that the family is living in the unit, or relating to family absence from the unit, including any GRHC-requested information or certification on the purposes of family absences. The family must cooperate with the GRHC for this purpose. The family must promptly notify the GRHC when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 15 calendar days of the start of the extended absence. If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, the GRHC will terminate the lease. *Abandonment of the unit.* If the family appears to have vacated the unit without giving proper notice, the GRHC will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the GRHC will secure the unit immediately to prevent vandalism and other criminal activity.

### **13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY**

#### **Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]**

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the GRHC may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with GRHC policy. As a condition of continued tenancy, the GRHC may require that any household member who participated in or was responsible for any offense no longer resides in the unit.

The GRHC will consider requiring the tenant to exclude a household member from continuing to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon GRHC request.

### **Repayment of Family Debts**

If a family owes amounts to the GRHC, as a condition of continued occupancy, the GRHC will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the GRHC of the amount owed. See Chapter 16 for policies on repayment agreements.

## **13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY**

### **Evidence [24 CFR 982.553(c)]**

For criminal activity, HUD permits the GRHC to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction. The GRHC will use the preponderance of the evidence as the standard for making all termination decisions. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

### **Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]**

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the GRHC may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease. Such relevant circumstances can also be considered when terminating the lease for any other non-mandatory reason. The GRHC will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property.
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor or a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault, or stalking.
- The effects that the eviction will have on other family members who were not involved in the action or failure to act.
- The effect on the community of the termination, or of the GRHC's failure to terminate the

tenancy.

- The effect of the GRHC's decision on the integrity of the public housing program.
- The demand for housing by eligible families who will adhere to lease responsibilities.
- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action.
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future.

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the GRHC may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The GRHC may also consider:

- Any statements made by witnesses, or the participant not included in the police report.
- Whether criminal charges were filed.
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal.
- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity.
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.
- In the case of program abuse, the dollar amount of the underpaid rent and whether a false certification was signed by the family.

#### **Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]**

HUD authorizes the GRHC to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program. In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the GRHC will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. For this purpose, the GRHC will require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

#### **Reasonable Accommodation [24 CFR 966.7]**

If the family includes a person with disabilities, the GRHC's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8. If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the GRHC will determine whether the behavior is related to the disability. If so, upon the family's request, the GRHC will determine whether alternative measures are appropriate as a reasonable accommodation. The GRHC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

#### **Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]**

The GRHC's eviction actions will be consistent with fair housing and equal opportunity provisions of HUD's regulations.

### **13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

#### **VAWA Protections against Termination [24 CFR 5.2005(c)]**

This section describes the two specific protections against termination that VAWA provides for victims of domestic violence, dating violence, sexual assault, or stalking.

#### **Limits on VAWA Protections [24 CFR 5.2005(d) and (e); FR Notice 8/6/13]**

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the GRHC will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking.
- Whether the threat is a physical danger beyond a speculative threat.
- Whether the threat is likely to happen within an immediate time frame.
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat.

If the tenant wishes to contest the GRHC's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

#### **Documentation of Abuse [24 CFR 5.2007]**

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the GRHC will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP. The GRHC reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the GRHC will document the waiver in the individual's file.

#### **Terminating or Evicting a Perpetrator of Domestic Violence**

This section discusses the explicit authority that VAWA gives the GRHC to bifurcate a lease so that it can terminate or evict a perpetrator of domestic violence without terminating or evicting the victim. As the section points out, this authority supersedes any state or local law to the contrary. However, when exercising this authority, the GRHC must comply with all applicable local, state, and federal laws on eviction, termination of tenancy, and termination of assistance, as well as its own policies in these areas. Also, note that Notice PIH 2017-08 states that perpetrators should be given no more than 30 calendar days' notice of termination in most cases. For remaining family members, the GRHC must not initiate eviction procedures until 30 days after the least bifurcation. The GRHC will bifurcate a family's lease and terminate the tenancy of a family member if the GRHC determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members. In making its decision, the GRHC will

consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the GRHC by the victim in accordance with this section and section 16-VII.D. The GRHC will also consider the factors in section 13.III.E. Upon such consideration, the GRHC may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member. If the GRHC does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, the GRHC must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the GRHC must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013.



## **PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING**

### **13-IV.A. OVERVIEW**

This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and GRHC policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

### **13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(1)(ii) and 24 CFR 960.259]**

HUD authorizes the GRHC to conduct criminal records checks on public housing residents for lease enforcement and eviction. GRHC policy determines when the GRHC will conduct such checks. The GRHC will conduct criminal records checks when it has come to the attention of the GRHC, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. To obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

### **13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]**

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the GRHC will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken. The family will be given 15 calendar days from the date of the GRHC notice, to dispute the accuracy and relevance of the information. If the family does not contact the GRHC to dispute the information within that 15 calendar day period, the GRHC will proceed with the termination action. Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

### **13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)] Form, Delivery, and Content of the Notice**

Notices of lease termination shall be in writing and delivered to the tenant or an adult member of the household or sent by first-class mail or posted on door and properly addressed to the tenant. If the GRHC offers remote hearings and the notice will state that the resident may request a remote hearing. The GRHC will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such an attempt fails, the notice will be sent by first-class mail the same day. All notices of lease termination will include a copy of the form HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, or stalking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

**Timing of the Notice [24 CFR 966.4(l)(3)(i)]**

The GRHC will give written notice of seven (7) calendar days for nonpayment of rent. The GRHC will give written notice of seven (7) if any member of the household is engaging in drug-related or violent criminal activity. For all other lease terminations, the GRHC will give 35 calendar days' written notice.

**Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]**

If after receiving a notice of initial noncompliance the family does not request a grievance hearing or does not take corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above. If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

**Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

The notice of denial or termination of assistance shall advise the family:

1. That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;
2. That the family may be eligible for proration of assistance as provided under § 5.520;
3. In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in §§ 5.514 and 5.518;
4. That the family has a right to request an appeal to the INS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal in accordance with the procedures of paragraph (e) of this section;
5. That the family has a right to request an informal hearing with the responsible entity either upon completion of the INS appeal or in lieu of the INS appeal as provided in paragraph (f) of this section;
6. For applicants, the notice shall advise that assistance may not be delayed until the conclusion of the INS appeal process, but assistance may be delayed during the pendency of the informal hearing process.

**13-IV.E. EVICTION**

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The GRHC may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties. If the family voluntarily moves by the deadline in their lease termination notice, an eviction action is not necessary. When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the GRHC will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases. If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the GRHC will seek the assistance of the court to remove the family from the premises as per state and local law.

### **13-IV.F. RECORD KEEPING**

A written record of every termination and/or eviction shall be maintained by the GRHC at the development where the family was residing, and shall contain the following information:

- Name of resident, number and identification of unit occupied.
- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently.
- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident.
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.

**EXHIBIT 13-1: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
INITIAL NOTIFICATION FOR NPHOI FAMILY OPTION<sup>2</sup>**

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*These Sample Notices include provisions required per [24 CFR 960.507\(c\)](#). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]*

## OVER-INCOME FAMILY INITIAL NOTIFICATION

*[name of PHA]*

Resident name:

Address:

Date:

## Purpose

The purpose of this notice is to inform you that \_\_\_\_\_ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

## What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing [address] or requesting more information from PHA staff at: [location]. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

## What about changes to my income?

<sup>2</sup> This sample notice is presented verbatim from HUD’s sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

*[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]*

### **What if my family remains over-income in 24 consecutive months?**

According to the Continued Occupancy Policy, your family may continue to reside in a public housing unit even if you remain over-income after 24 months. However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to stay in your unit after remaining over-income for 24 consecutive months, you will:

- Pay an "alternative non-public housing rent" (currently estimated at \$\_\_\_\_\_)
  - > The alternative rent is adjusted annually and subject to change.
  - > You will receive a notification with more details on what to expect next if you decide to remain in a public housing unit after 24 consecutive months of being over-income.
- Need to sign a new lease for Non-Public Housing Over-Income (NPHOI) families.
  - > The NPHOI lease will need to be signed no later than 60 days after receiving notification of the end of the 24-month grace period or at the next lease renewal, whichever is sooner.

*[INSERT PHA CONTACT INFORMATION]*

**EXHIBIT 13-2: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
INITIAL NOTIFICATION FOR TERMINATE ONLY OPTION<sup>3</sup>**

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*These Sample Notices include provisions required per [24 CFR 960.507\(c\)](#). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]*

## OVER-INCOME FAMILY INITIAL NOTIFICATION

*[name of PHA]*

Resident name:

Address:

Date:

## Purpose

The purpose of this notice is to inform you that \_\_\_\_\_ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

## What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

## What about changes to my income?

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will

<sup>3</sup> This sample notice is presented verbatim from HUD’s sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

*[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]*

**What if my family remains over-income for 24 consecutive months?**

Within 30 days of the recertification, you will receive a notice like this one informing you that your family has remained over-income for 24 consecutive months. According to the Continued Occupancy Policy, families that remain over-income for 24 consecutive months must leave their units and find other housing in no more than \_\_\_\_ *[up to 6 depending on PHA policy]* months after receiving notification.

If your family continues to reside in the unit after \_\_\_\_ *[restate date]*, the PHA will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

*[INSERT PHA CONTACT INFORMATION]*

**EXHIBIT 13-3: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
12-MONTH NOTIFICATION FOR NPHOI FAMILY OPTION<sup>4</sup>**

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*These Sample Notices include provisions required per [24 CFR 960.507\(c\)](#). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]*

## OVER-INCOME FAMILY 12 MONTH NOTIFICATION

*[name of PHA]*

Resident name:

Address:

Date:

## Purpose

The purpose of this notice is to inform you that \_\_\_\_\_ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

## What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

## What about changes to my income?

<sup>4</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.



We will need to re-examine your income in 12 months. After the reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

**What if my family remains over-income in consecutive 12 months?**

According to the Continued Occupancy Policy, your family may continue your tenancy even if you remain over-income for another 12 months (24 consecutive months total). However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to remain in a public housing unit after the 24 month grace period, you will:

- No longer be a public housing program participant and will therefore not be eligible to participate in the resident council or programs specifically for public housing residents.
- Pay an "alternative non-public housing rent" (currently estimated at \$\_\_\_\_\_)
- Need to sign a new lease

*[INSERT PHA CONTACT INFORMATION]*

**EXHIBIT 13-4: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
12-MONTH NOTIFICATION FOR TERMINATE ONLY OPTION<sup>5</sup>**

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*These Sample Notices include provisions required per [24 CFR 960.507\(c\)](#). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]*

## OVER-INCOME FAMILY 12 MONTH NOTIFICATION

*[name of PHA]*

Resident name:

Address:

Date:

## Purpose

The purpose of this notice is to inform you that \_\_\_\_\_ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

## What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public housing program.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

## What about changes to my income?

We will need to re-examine your income in 12 months. After the reexamination, you will receive a

<sup>5</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

**What if my family remains over-income in consecutive 12 months?**

Within 30 days of the recertification, you will receive a notice like this one informing you that your family has remained over-income for 24 consecutive months. According to the Continued Occupancy Policy, families that remain over-income for 24 consecutive months must leave their units and find other housing in no more than \_\_\_ *[up to 6 depending on PHA policy]* months after receiving notification.

If your family continues to reside in the unit after \_\_\_\_ *[restate date]*, \_\_\_\_ *[name of PHA]* will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

*[INSERT PHA CONTACT INFORMATION]*

**EXHIBIT 13-5: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
24-MONTH NOTIFICATION FOR NPHOI FAMILY OPTION<sup>6</sup>**

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**OVER-INCOME FAMILY  
24 MONTH NOTIFICATION**

\_\_\_\_\_  
*[name of PHA]*

Resident name:

Address:

Date:

**Purpose**

The purpose of this notice is to inform you that \_\_\_\_\_ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing.

This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program. However, you do not have to move – see below for details.

**What if I disagree that my family is over-income?**

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible.

**What about changes to my income?**

Changes to your income after you receive this notice will not change our determination. Because your family has been over-income for 24 months, you are no longer eligible for assistance under the public

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<sup>6</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

housing program.

**What do I need to do now?**

According to the Continued Occupancy Policy, your family may continue your tenancy. However, because you will not receive assistance from the federal public housing program, your rent will be calculated differently.

If you choose to remain in a public housing unit, you will:

- Pay an “alternative non-public housing rent” (currently \$\_\_\_\_)
- Need to sign a new lease within 60 days or at your next lease renewal (whichever is sooner)

If the lease is not signed within this time period, the PHA must terminate your tenancy by \_\_\_\_ *[no more than 6 months after this notification]*. However, per policy, \_\_\_\_ *[name of PHA]* may permit an over-income family to execute the lease after this period (up to 60 days), but before termination of the tenancy. In this case, the family must pay the total difference between the alternative non-public housing rent and your public housing rent dating back to the date when you were required to execute the lease.

If you choose to leave your unit, please inform us as soon as possible according to your existing lease.

To inform the PHA if you do not plan to remain in a public housing unit: *[Use this space to detail when and how and family can inform the PHA if they decline to stay in the unit.]*

*[INSERT PHA CONTACT INFORMATION]*

**EXHIBIT 13-6: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
24-MONTH NOTIFICATION FOR TERMINATION ONLY OPTION<sup>7</sup>**

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*These Sample Notices include provisions required per [24 CFR 960.507\(c\)](#). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]*

**OVER-INCOME FAMILY  
24 MONTH NOTIFICATION**

*[name of PHA]*

Resident name:

Address:

Date:

**Purpose**

The purpose of this notice is to inform you that \_\_\_\_\_ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program.

**What if I disagree that my family is over-income?**

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible.

**What about changes to my income?**

Changes to your income after you receive this notice will not change our determination. If necessary, you may request an interim reexamination, but a decrease in income or rent will not make you eligible to remain. Because your family has been over-income for 24 consecutive months, you are no longer eligible

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<sup>7</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

for assistance under the public housing program.

**What do I need to do now?**

According to the Continued Occupancy Policy, your family cannot continue your tenancy. You must find other housing as soon as possible. Our policy is to allow families up to \_\_\_\_ *[up to 6 depending on PHA policy]* months to find other housing.

If your family continues to reside in the unit after \_\_\_\_ *[restate date]*, the PHA will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

*[The following is an optional section where the PHA may include referral services to support a family in finding new housing.]*

The following services are available to assist you:

*[INSERT PHA CONTACT INFORMATION]*

## **Chapter 14**

### **GRIEVANCES AND APPEAL**

#### **INTRODUCTION**

This chapter discusses complaints, grievances and appeals pertaining to GRHC actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the GRHC's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure. There is a fine line between policy (what the agency does) and procedure (how the policy is executed). In some decision points that line is not clear. In these cases the model ACOP provides greater detail and includes some procedure decisions.



## **PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS**

### **14-I.A. OVERVIEW**

This part outlines the requirements and procedures for informal hearings for public housing applicants.

### **14-I.B. INFORMAL HEARING PROCESS**

#### **Use of Informal Hearing Process**

The GRHC will only offer informal hearings to applicants for the purpose of disputing denials of admission.

#### **Notice of Denial [24 CFR 960.208(a)]**

As applicable, the GRHC's notice of denial will include information about required or requested remote informal hearings.

#### **Scheduling an Informal Hearing**

A request for an informal hearing must be made in writing and delivered to the GRHC either in person or by first class mail, by the close of the business day, no later than 15 calendar days from the date of the GRHC's notification of denial of admission.

The GRHC will schedule and send written notice of the informal hearing within 15 calendar days of the family's request.

If the GRHC informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

Regarding the processes involved in a remote informal hearing.

That the GRHC will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform the GRHC and the GRHC will assist the family in either resolving the issues or allow the family to participate in an in-person informal hearing, as appropriate.

#### **Conducting an Informal Hearing [PH Occ GB, p. 58]**

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person. The applicant will be provided with an opportunity to present written or oral objections to the decision of the GRHC. The person conducting the informal hearing will make a recommendation to the GRHC, but the GRHC is responsible for making the final decision as to whether admission should be granted or denied.

### **Remote Informal Hearings [Notice PIH 2020-32]**

The GRHC has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster, and if administratively advantageous. In addition, the GRHC will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The GRHC will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

The GRHC will accept requests for reasonable accommodation for persons with disabilities and/or LEP individuals to ensure access to an informal hearing. This may include, remote informal hearing, offsite hearings, over the telephone, provide a translator or any accommodation without causing excessive administrative burden to the GRHC, to ensure all persons eligible, can exercise their right to an informal hearing.

### **Conducting Remote Informal Hearings [Notice PIH 2020-32]**

The GRHC will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time. At least seven (7) calendar days prior to scheduling the remote hearing, the GRHC will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the GRHC of any known barriers. The GRHC will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing. If the informal hearing is to be conducted remotely, the GRHC will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The GRHC will scan and email copies of these documents to the GRHC representative and to the person conducting the informal hearing the same day. Documents will be shared electronically whenever possible. The GRHC will follow up the email with a phone call and/or email to the applicant at least one (1) business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform. The GRHC will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

### **Informal Hearing Decision [PH Occ GB, p. 58]**

The GRHC must notify the applicant of the GRHC's final decision, including a brief statement of the reasons for the final decision. The GRHC will notify the applicant of the GRHC's final decision, including a brief statement of the reasons for the final decision. In rendering a decision, the GRHC will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice
- The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in GRHC policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.
- The validity of the evidence. The GRHC will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the GRHC will uphold the decision to deny admission.
- If the facts prove the grounds for denial, and the denial is discretionary, the GRHC will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The GRHC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 15 calendar days of the informal hearing, to the applicant and his or her representative, if any. If the informal hearing decision overturns the denial, processing for admission will resume. If the family fails to appear for their informal hearing, the denial of admission will stand, and the family will be so notified.

## **PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS**

### **14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

#### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

The notice of denial or termination of assistance shall advise the family:

1. That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;
2. That the family may be eligible for proration of assistance as provided under § 5.520
3. In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in §§ 5.514 and 5.518;
4. That the family has a right to request an appeal to the INS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal
5. That the family has a right to request an informal hearing with the responsible entity either upon completion of the INS appeal or in lieu of the INS appeal as provided in paragraph (f) of this section.
6. For applicants, the notice shall advise that assistance may not be delayed until the conclusion of the INS appeal process, but assistance may be delayed during the pendency of the informal hearing process.

#### **United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]**

When the GRHC receives notification that the United States Citizenship and Immigration Services (USCIS) secondary verification failed to confirm eligible immigration status of an applicant or tenant, the GRHC must notify the family of the results, and the family has 30 calendar days from the date of the notification to make an appeal to the USCIS of the verification results. The GRHC will notify the family in writing of the results of the USCIS secondary verification within 15 calendar days of receiving the results. The family must provide the GRHC with a copy of the written request for appeal and proof of mailing within 15 calendar days of sending the request to the USCIS. The GRHC will send written notice to the family of its right to request an informal hearing within 15 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

#### **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

The informal hearing procedures for applicants are discussed in this section.

##### **Informal Hearing Officer**

The GRHC must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

##### **Evidence**

The family will be allowed to copy any documents related to the hearing at no cost to the family.

The family must request discovery of GRHC documents no later than 12:00 p.m. on the business day prior to the hearing.

**Representation and Interpretive Services**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing. The GRHC will provide interpretation services through a third-party.

**Recording of the Hearing**

The GRHC will not provide a transcript of an audio taped hearing.

**Hearing Decision**

The GRHC must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

**Retention of Documents [24 CFR 5.514(h)]**

The GRHC must retain for a minimum of 5 years specific documents that were submitted to the GRHC by the family or provided to the GRHC as part of the USCIS appeal or the GRHC informal hearing process.

## **PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS**

### **14-III.A. OVERVIEW**

This part outlines the requirements and procedures for handling grievances for public housing residents.

### **14-III.A. REQUIREMENTS [24 CFR 966.52]**

The GRHC grievance procedure will be included in the tenant lease as an addendum. Residents and resident organizations will have 30 calendar days from the date they are notified by the GRHC of any proposed changes in the GRHC grievance procedure, to submit written comments to the GRHC.

### **14-III.B. DEFINITIONS [24 CFR 966.53 and 24 CFR 966.51(a)(2)(i)]**

A glossary of terminology is provided at the end of this document.

### **14-III.C. APPLICABILITY [24 CFR 966.51]**

At the time of this publication, almost all states, except for Florida, are currently due process states. In due-process states, if eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the GRHC, or for a drug-related criminal activity on or off the premises, the GRHC is not required to offer a grievance hearing. The GRHC is in a HUD-declared due process state. Therefore, the GRHC will not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the GRHC, for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member.

### **14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]**

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the GRHC office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing. The GRHC will accept requests for an informal settlement of a grievance either orally or in writing (including emailed requests) to the GRHC office within 15 calendar days of the grievable event. Within 15 calendar days of receipt of the request the GRHC will arrange a meeting with the tenant at a mutually agreeable time and confirm such a meeting in writing to the tenant. The informal settlement may be conducted remotely as required by the GRHC or may be conducted remotely upon consideration of the request of the tenant. If a tenant fails to attend the scheduled meeting without prior notice, the GRHC will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. The GRHC will prepare a summary of the informal settlement within seven (7) calendar days; one copy to be given to the tenant and one copy to be retained in the GRHC's tenant file.

### **14-III.E. PROCEDURES TO OBTAIN A HEARING**

#### **Requests for Hearing and Failure to Request**

The resident must submit a written request (including emailed requests) for a grievance hearing to the GRHC within seven (7) calendar days of the tenant's receipt of the summary of the informal

settlement. If the complainant does not request a hearing, the GRHC's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the GRHC's action in disposing of the complaint in an appropriate judicial proceeding.

#### **Scheduling of Hearings [24 CFR 966.56(a)]**

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the GRHC. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate GRHC official. Within 15 calendar days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the GRHC. If the GRHC hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

- Regarding the processes involved in a remote grievance hearing.
- That the GRHC will provide technical assistance prior to and during the hearing, if needed;
- That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the GRHC and the GRHC will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.
- The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the GRHC may request documentation of the "good cause" prior to rescheduling the hearing.

#### **Expedited Grievance Procedure [24 CFR 966.52(a)]**

The GRHC will not offer expedited grievance procedures.

#### **14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]**

The grievance hearing must be conducted by an impartial person or persons appointed by the GRHC, other than the person who made or approved the GRHC action under review, or a subordinate of such person. GRHC grievance hearings will be conducted by a single hearing officer. The GRHC will appoint a staff member who was not involved in the decision under appeal. If a designated staff member (such as the program manager) was involved in the decision, or is a subordinate of such person, an alternate hearing officer will be selected.

#### **14-III.G. REMOTE HEARINGS [Notice PIH 2020-32]**

The GRHC has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster or administrative efficiency. In addition, the GRHC will conduct a hearing remotely upon request as a reasonable accommodation for a person with a disability, or if a tenant does not have childcare or transportation that would enable them to attend the hearing, or if the tenant believes an in-person hearing would create an undue health risk. The GRHC will consider other reasonable requests for a remote hearing on a case-by-case basis.

### **Discovery of Documents Before the Remote Hearing**

If the hearing is conducted remotely, the GRHC will compile a hearing packet, consisting of all documents the GRHC intends to produce at the hearing. The GRHC will mail copies of the hearing packet to the tenant, the tenant's representatives, if any, and the hearing officer prior to the scheduled remote hearing. The original hearing packet will be in the possession of the GRHC representative and retained by the GRHC. If the hearing is to be conducted remotely, the GRHC will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The GRHC will scan and email copies of these documents to the hearing officer and the GRHC representative prior to the hearing. Documents will be shared electronically whenever possible.

### **Conducting Hearings Remotely**

The GRHC will conduct remote grievance hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the grievance hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote grievance hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time. At least seven (7) calendar days prior to scheduling the remote hearing, the GRHC will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the GRHC of any known barriers. The GRHC will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing. The GRHC will follow up with a phone call and/or email to the family at least one business day prior to the remote grievance hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform. The GRHC will ensure that all electronic information stored or transmitted with respect to the grievance hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

## **14-III.H. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]**

### **Rights of Complainant [24 CFR 966.56(b)]**

HUD regulations provide the tenant the right to examine GRHC documents prior to the hearing. The tenant will be allowed to copy any documents related to the hearing at no cost to the family. There will be no charge for documents emailed by the GRHC. The family must request discovery of GRHC documents no later than the business day prior to the hearing. The regulations provide the tenant with the right to be represented by counsel or another person of the tenant's choosing. Hearings may be attended by the following applicable persons:

- The GRHC representatives and any witnesses for the GRHC.
- The tenant and any witnesses for the tenant
- The tenant's counsel or other representative
- Any other person approved by the GRHC as a reasonable accommodation for a person with a disability.

### **Failure to Appear [24 CFR 966.56(c)]**

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up



to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear. If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the GRHC within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities. "Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

#### **General Procederes [24 CFR 966.56(d), 966.56(e)]**

The GRHC and the tenant must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at a grievance hearing. Any evidence to be considered by the hearing officer must be presented no later than at the time of the hearing. There are four categories of evidence.

- **Oral evidence:** the testimony of witnesses
- **Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the GRHC. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof. If the GRHC fails to comply with the discovery requirements (providing the tenant with the opportunity to examine GRHC documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence. Other than the failure of the GRHC to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence. If the complainant would like the GRHC to record the proceedings by audiotape, the request must be made to the GRHC a day prior to the hearing. The audio tape recording of the proceedings is a transcript.

#### **14-III.I. DECISION OF THE HEARING OFFICER [24 CFR 966.57]**

The hearing officer must prepare a written decision, together with the reasons therefore, within a reasonable time after the hearing.

In rendering a decision, the hearing officer will consider the following matters:

- **PHA Notice to the Family:** The hearing officer will determine if the reasons for the GRHC's decision are factually stated in the notice.
- **Discovery:** The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with GRHC policy.
- **PHA Evidence to Support the GRHC Decision:** The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the facts to determine if they support the GRHC's conclusion.

- **Validity of Grounds for Termination of Tenancy (when applicable):** The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and GRHC policies. If the grounds for termination are not specified in the regulations or in compliance with GRHC policies, then the decision of the GRHC will be overturned.
- The hearing officer will issue a written decision to the family and the GRHC no later than 15 calendar days after the hearing. The report will contain the following information:

**Hearing information:**

- Name of the complainant
- Date, time and place of the hearing
- Name of the hearing officer
- Name of the GRHC representatives
- Name of family representative (if any)
- Names of witnesses (if any)
- **Background:** A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.
- **Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the GRHC's decision.
- **Order:** The hearing report will include a statement of whether the GRHC's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the GRHC to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the GRHC to restore the family's status.

### **Procedures for Further Hearing**

The hearing officer may ask the family for additional information and/or might adjourn the hearing to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the GRHC will take effect and another hearing will not be granted.

### **Final Decision [24 CFR 966.57(b)]**

When the GRHC considers the decision of the hearing officer to be invalid, it will present the matter to the GRHC Board of Commissioners within 15 calendar days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 15 calendar days of

this decision.

## **Chapter 15**

### **PROGRAM INTEGRITY**

#### **INTRODUCTION**

This chapter covers HUD and GRHC policies designed to prevent, detect, investigate and resolve instances of unintentional errors and intentional program abuse.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents GRHC policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the GRHC must and may take when errors or program abuses are found.

## **PART I. PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

This section describes the methods the GRHC will use to prevent errors and program abuse. The GRHC anticipates that most families and GRHC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. For the purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitutes a false statement, omission, or concealment of a substantial fact, made with the intent to deceive, or mislead. To ensure that the GRHC's public housing program is administered effectively and according to the highest ethical and legal standards, the GRHC will employ a variety of techniques to ensure that both errors and intentional program abuse are rare, including:

- The GRHC will provide each applicant and resident with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- The GRHC will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the GRHC will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- The GRHC will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The GRHC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.
- The GRHC will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.
- PHA staff will be required to review and explain the contents of all HUD- and GRHC-required forms prior to requesting family member signatures.
- The GRHC will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key GRHC forms and form letters that request information from a family member.
- The GRHC will provide each GRHC employee with the necessary training on program rules and the organization's standards of conduct and ethics.
- At each regular reexamination the GRHC staff will explain any changes in HUD regulations or GRHC policy that affect residents.

### **15-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the GRHC will use a variety of activities to detect errors and program abuse.

#### **Quality Control and Analysis of Data**

The GRHC will employ a variety of methods to detect errors and program abuse, including: The GRHC routinely will use EIV and other non-HUD sources of up- front income verification. This includes the Work Number and any other private or public databases available to the GRHC. At each annual reexamination, current information provided by the family will be compared to

information provided at the last annual reexamination to identify inconsistencies and incomplete information. The GRHC will compare family-reported income and expenditures to detect possible unreported income.

### **Independent Audits and HUD Monitoring**

The GRHC will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the GRHC's error detection and abuse prevention efforts.

### **Individual Reporting of Possible Errors and Program Abuse**

The GRHC will encourage staff, residents, and the public to report possible errors and program abuse.

## **15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

The GRHC will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the GRHC to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member. The GRHC will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

### **Consent to Release of Information**

The GRHC may investigate possible instances of error or abuse using all available GRHC and public records. If necessary, the GRHC may require families to sign consent forms for the release of additional information.

### **Analysis and Findings**

The GRHC will base its evaluation on a preponderance of the evidence collected during its investigation. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence. For each investigation the GRHC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the GRHC, and (3) what corrective measures or penalties will be assessed.

### **Consideration of Remedies**

In the case of family-caused errors or program abuse, the GRHC will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

### **Notice and Appeals**

The GRHC will inform the relevant party in writing of its findings and remedies within 15 calendar days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the GRHC determined the error or program abuses, (3) the

remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

## **PART II. CORRECTIVE MEASURES AND PENALTIES**

### **15-II.A. UNDER- OR OVERPAYMENTS**

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

#### **Corrections**

Whether it is overpayment or underpayment, the GRHC must promptly implement the correct the tenant rent and any utility reimbursement. Increases in the tenant rent will be implemented on the first of the month following a written 30-day notice. Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

#### **Reimbursement**

Whether the family is required to reimburse the GRHC or the GRHC is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or intentional program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

### **15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the GRHC to use incorrect information provided by a third party.

#### **Family Reimbursement to GRHC**

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The GRHC may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the GRHC will terminate the family's lease in accordance with the policies in Chapter 13.

#### **PHA Reimbursement to Family**

The GRHC will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

#### **Prohibited Actions**

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the GRHC [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the GRHC [24 CFR 960.259(a)(4)].
- Commit fraud or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)©]
- Any of the following will be considered evidence of family program abuse:
  - Offering bribes or illegal gratuities to the GRHC Board of Commissioners, employees, contractors, or other GRHC representatives
  - Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the GRHC on the family's behalf.
  - Use of a false name or the use of falsified, forged, or altered documents.
  - Intentional misreporting of family information or circumstances (e.g., misreporting



- of income or family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The GRHC may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

### **Penalties for Program Abuse**

The GRHC will pursue remedies, up to terminations, for any activities verified to be in violation/or an abuse of the LIPH program.

## **15-II.C. GRHC-CAUSED ERRORS OR PROGRAM ABUSE**

This section addresses actions of a GRHC staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the GRHC personnel policy. GRHC-caused incorrect subsidy determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

### **De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]**

The GRHC will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the GRHC determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family. The GRHC will take corrective action to credit or repay a family if the family was overcharged rent, including when the GRHC makes de minimis errors in the income determination. Families will not be required to repay the GRHC in instances where the GRHC miscalculated income resulting in a family being undercharged for rent. The GRHC will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

### **Prohibited Activities**

Any of the following will be considered evidence of program abuse by GRHC staff:

- Failing to comply with any public housing program requirements for personal gain.
- Failing to comply with any public housing program requirements as a result of a conflict-of-interest relationship with any applicant or resident.
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the GRHC.
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of GRHC activities, policies, or practices
- Misappropriating or misusing public housing funds
- Destroying, concealing, removing, or inappropriately using any records related to the public housing program.
- Committing any other corrupt or criminal act in connection with any federal housing program
- Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

- Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the GRHC knew or should have known such harassment was occurring.
- Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

#### **15-II.D. CRIMINAL PROSECUTION**

When the GRHC determines that program abuse by a family or GRHC staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the GRHC will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

#### **15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES**

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the GRHC recovers [Notice PIH 2007-27 (HA)].

## Chapter 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of GRHC-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the GRHC will offer repayment agreements to families. Also discussed are the consequences of failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the GRHCS indicators, how GRHCs are scored under GRHCS, and how those scores affect a GRHC.

Part V: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the GRHC will follow.

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the GRHC's reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

Part VIII: Over Income Families. This part contains updated language required by the Housing Opportunity Through Modernization Act's (HOTMA) under Public Housing Income Limit

## **PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]**

### **16-I.A. OVERVIEW**

The GRHC covers the cost of utilities to its LIPH residents, other than at its Scattered Sites locations. The GRHC will utilize the utility allowance established for the HCV program for these units.

### **16-I.B UTILITY ALLOWANCES**

#### **Utility Allowance Revisions [24 CFR 965.507]**

The GRHC will review its schedule of utility allowances each year and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised. The GRHC will maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

### **16-I.C. SURCHARGES FOR GRHC-FURNISHED UTILITIES [24 CFR 965.506]**

GRHC does not have surcharges GRHC-furnished utilities at Adams. However, the GRHC does charge a fee for resident supplied air conditioning units. The GRHC will determine this fee on an annual basis.

### **16-I.D. NOTICE REQUIREMENTS [965.502]**

The GRHC 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 the PHA's record maintained is available for inspection; and shall provide all residents an opportunity to submit written comments during a period expiring not less than 30 calendar days before the proposed effective date of the allowances or scheduled surcharges or revisions. Such written comments shall be retained by the PHA and shall be available for inspection by residents.

### **16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]**

Requests for relief from surcharges for excess consumption of GRHC-purchased utilities, or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities, may be granted by the GRHC 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 the GRHC shall deem appropriate. Residents can submit their request for reasonable accommodation to the property office for consideration.

## **PART II: ESTABLISHING FLAT RENTS**

### **16-II.A. OVERVIEW**

This part describes the requirements and policies related to establishing and updating flat rent amounts.

### **16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2017-23]**

#### **Establishing Flat Rents**

The GRHC will utilize 80% of Local Area Fair Market Rent as the Flat Rent, as required by HUD guidance PIN Notice 2022-33.

#### **Review of Flat Rents**

The GRHC must review flat rent annually. If the FMR/SAFMR/unadjusted rent is lower than the previous year, the GRHC will reduce flat rents to 80 percent of the current FMR/SAFMR/unadjusted rent.

#### **Posting of Flat Rents**

The GRHC will publicly post the schedule of flat rents in a conspicuous manner in the applicable GRHC or project office.

#### **Documentation of Flat Rents [24 CFR 960.253(b)(5)]**

The GRHC will save flat rent documentation in the LIPH project file for each development, as applicable.

## **PART III: FAMILY DEBTS TO THE GRHC**

### **16-III.A. OVERVIEW**

This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the GRHC will offer repayment agreements to families. Also discussed are the consequences of failure to make payments in accordance with a repayment agreement. When an action or inaction of a resident family results in the underpayment of rent or other amounts, the GRHC holds the family liable to return any underpayments to the GRHC.

The GRHC will enter into repayment agreements in accordance with the policies contained in this part as a means to recover underpayments. When a family refuses to repay monies owed to the GRHC, the GRHC will utilize other available collection alternatives including, but not limited to, Collection agencies, small claims court, Civil law suit, and the State income tax set-off program

### **16-III.B. REPAYMENT POLICY**

#### **Family Debts to the GRHC**

Any amount owed to the GRHC by a public housing family must be repaid. If the family is unable to repay the debt within 30 calendar days, the GRHC will offer to enter into a repayment agreement in accordance with the policies below. If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the GRHC will terminate the family's tenancy in accordance with the policies in Chapter 13. The GRHC will also pursue other modes of collection.

#### **General Repayment Agreement Guidelines**

##### **Down Payment Requirement**

Before executing a repayment agreement with a family, the GRHC will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the GRHC that a down payment of 10 percent would impose an undue hardship, the GRHC may, in its sole discretion, require a lesser percentage or waive the requirement.

## **Payment Thresholds**

The GRHC has established the following thresholds for repayment of debts:

- Amounts between \$3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.
- Amounts between \$2,000 and \$2,999 must be repaid within 30 months.
- Amounts between \$1,000 and \$1,999 must be repaid within 24 months.
- Amounts under \$1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the GRHC that the threshold applicable to the family's debt would impose an undue hardship, the GRHC may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the GRHC will consider all relevant information, including the following:

- The amount owed by the family to the GRHC.
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control.
- The family's current and potential income and expenses.
- The family's current tenant rent, as calculated under 24 CFR 960.253(c) The family's history of meeting its financial responsibilities.

## **Execution of the Agreement**

Any repayment agreement between the GRHC and a family must be signed and dated by the GRHC and by the head of household and spouse/cohead (if applicable).

## **Due Dates**

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

## **Late or Missed Payments**

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the GRHC, the GRHC will send the family a delinquency notice giving the family 15 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the GRHC will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the GRHC will terminate tenancy in accordance with the policies in Chapter 13.

## **No Offer of Repayment Agreement**

The GRHC generally will not enter into a repayment agreement with a family under any of the following conditions:

- The family is already under an existing repayment agreement with the GRHC.
- The GRHC determines that the family's debt is a result of program abuse or fraud (as defined in Chapter 15 of the ACOP).
- The amount owed by the family exceeds the federal or state threshold for criminal prosecution.

### **Repayment Agreements Involving Improper Payments**

Notice PIH 2017-12 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance



## **PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)**

### **16-IV.A. OVERVIEW**

The Public Housing Assessment System, or PHAS, is the system that HUD uses to assess a PHA's performance in managing its low-rent public housing programs. As an MTW designated agency the GRHC won't be scored under PHAS, however, the GRHC will still track various indicators as measures for good asset management.

### **16-IV.B. PHAS INDICATORS/SCORING [24 CFR 902 Subparts A, B, C, D, E, F]**

HUD uses a centralized system to collect individual subsystem scores using various sub indicators and produces a composite PHAS score representing PHA's performance management. PHAS uses a 100-point scoring system based on four categories of indicators:

- **PASS (Physical Assessment Subsystem) – 40 points**
  - The purpose of the PASS is to determine whether public housing units are decent, safe, sanitary and in good repair, and to determine the level to which the PHA is maintaining its public housing in accordance with housing condition standards.
- **FASS (Financial Assessment Subsystem) – 25 points**
  - The purpose of the financial condition indicator is to measure the financial condition of each public housing project.
- **MASS (Management Assessment Subsystem) – 25 points**
  - The purpose of the management operations indicator is to assess the AMP's and PHA's management operations capabilities.
- **CFP (Capital Fund Program) – 10 points** Scores are generated for each development, or Asset Management Project (AMP).
  - The purpose of the Capital Fund program assessment is to examine the period of time it takes a PHA to obligate the funds provided to it from the Capital Fund program. Ultimately, the purpose is for PHAs to obligate 90% or more of these funds as quickly as possible, and no later than 2 years after funds become available. It is also to modernize and develop units and improve overall occupancy and to meet HUD's Strategic Plan goal to "Meet the Need for Quality Affordable Rental Homes."

AMP scores are weighted by how many units are in the AMP and then combined into the agency-wide score. The total score is used to determine the PHA's designation under PHAS. Scores below 60 results in a troubled designation. Scores of 90 points or above result in a high performer designation. Scores below 90 but above 60 are designated as a standard performer. If your PHA scores below 60 in any one indicator, you will be designated as a substandard performer.

| PHAS Indicators     | Score | Maximum Score |
|---------------------|-------|---------------|
| Physical            |       | 40            |
| Financial           |       | 25            |
| Management          |       | 25            |
| Capital Fund        |       | 10            |
| Late Penalty Points |       |               |

|                            |                               |            |
|----------------------------|-------------------------------|------------|
| <b>PHAS Total Score</b>    |                               | <b>100</b> |
| <b>Designation Status:</b> | <b>Small PHA Deregulation</b> |            |

## **PART V: RECORD KEEPING**

### **16-V.A. OVERVIEW**

All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the GRHC will follow. The GRHC must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements.

### **16-V.B. RECORD RETENTION [24 CFR 908.101 and 24 CFR 982.158]**

The GRHC will keep the last three (3) years of the Form HUD-50058 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination. In addition, the GRHC will keep the following records for at least three (3) years:

- An application from each ineligible family and notice that the applicant is not eligible.
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents.
- Documentation supporting the establishment of utility allowances and surcharges.
- Documentation related to PHAS.
- Accounts and other records supporting GRHC budget and financial statements for the program.
- Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.
- Confidential records of all emergency transfers related to VAWA requested under the GRHC's Emergency Transfer Plan and the outcomes of such requests.
- Other records as determined by the GRHC or as required by HUD.
- If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

### **16-V.C. RECORDS MANAGEMENT**

All applicant and participant information will be kept in a secure location and access will be limited to authorized GRHC staff and contractors. GRHC staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law. Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the GRHC may release the information collected.

### **Upfront Income Verification (UIV) Records**

Prior to utilizing HUD's EIV system, the GRHC will adopt and implement EIV security procedures in accordance with HUD requirements.

**Criminal Records**

The GRHC may only disclose the criminal conviction records which the GRHC receives from a law enforcement agency to officers or employees of the GRHC, or to authorized representatives of the GRHC who have a job-related need to have access to the information [24 CFR 5.903(e)].

The GRHC will establish and implement a system of records management that ensures that any criminal record received by the GRHC from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the GRHC action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)]. The GRHC will establish and implement a system of records management that ensures that any sex offender registration information received by the GRHC from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the GRHC action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR 5.905.

**Medical/Disability Records**

The GRHC is not permitted to inquire about the nature or extent of a person's disability or inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the GRHC receives a verification document that provides such information, the GRHC will not place this information in the tenant file, but destroy the document.

## **PART VI: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL**

### **16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e); Notice PIH 2017-13]**

The GRHC currently does not house children at its LIPH development. However, responsibilities will apply to its scattered site units. The GRHC has certain responsibilities relative to children with elevated blood lead levels that are living in public housing. This part describes the GRHC's reporting responsibilities related to children with elevated blood lead levels that are living in public housing. The GRHC will provide the public health department with written notice of the name and address of any child identified as having an elevated blood lead level. The GRHC will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD's Office of Lead Hazard Control (OLHCHH), within five (5) business days of receiving the information.

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

### **16-VII.A. OVERVIEW**

The Violence against Women Reauthorization Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

### **16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]**

This section provides the statutory definitions of five key terms used in VAWA.

- The term ***bifurcate*** means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term ***dating violence*** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship - The frequency of interaction between the persons involved in the relationship
- The term ***domestic violence*** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term ***economic abuse*** 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, and 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
- 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 to whom one has a fiduciary duty
- The term ***affiliated individual*** means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term ***sexual assault*** means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term ***stalking*** means to engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.
- The term ***technological abuse*** means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, 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
  - Communication technologies
  - Any other emergency technologies

#### **16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]**

##### **Notification to Public**

The GRHC will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)
- A copy of the GRHC's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)
- Contact information for local victim advocacy groups or service providers.

**Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]**

The GRHC must distribute a notice of VAWA rights (form HUD-5380), Exhibit 16-1 and 16-2, along with the VAWA self-certification form (form HUD-5382) at each of these three junctures:

- The GRHC will provide all applicants with information about VAWA at the time they request an application for housing assistance. The GRHC will also include such information in all notices of denial of assistance (See Section xx).
- The GRHC will provide all tenants with information about VAWA at the time of admission and at annual reexamination.
- The GRHC will also include such information in all lease termination notices.

Whenever the GRHC has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the GRHC may decide not to send mail regarding VAWA protections to the victim's unit if the GRHC believes the perpetrator may have access to the victim's mail, unless requested by the victim. When discussing VAWA with the victim, the GRHC will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room. The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

**16-VII.D. DOCUMENTATION [24 CFR 5.2007]**

This section explains the authority provided by VAWA to request documentation from an individual who asserts a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse. Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 15 calendar days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The GRHC may, in its discretion, extend the deadline by 15 calendar days. In determining whether to extend the deadline, the GRHC will consider factors that may contribute to the victim's inability to provide documentation in a timely manner including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the GRHC will be in writing. Once the victim provides documentation, the GRHC will acknowledge receipt of the documentation within 15 calendar days.

**Conflicting Documentation [24 CFR 5.2007(e)]**

If presented with conflicting certification documents from members of the same household, the GRHC will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, the GRHC will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation. If the GRHC does not receive third-party documentation within the required timeframe (and any extensions) the GRHC will deny VAWA protections and will notify



the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the GRHC will hold separate hearings for the applicants or tenants.

**Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

If the GRHC accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, or stalking, the GRHC will document acceptance of the statement or evidence in the individual's file.

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

To deny relief under VAWA, the GRHC must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 15 calendar days from the date of receipt, the GRHC may deny relief for protection under VAWA.

**16-VI.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the GRHC will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

**Part VIII: Over Income Limits**

**16.I.A Over-Income Families [24 CFR 960.261; FR Notice 2/14/23; Notice PIH 2023-03, 88 FR 9600]**

*Over-Income Families at New Admission*

Section 103 of HOTMA applies to all PHAs operating a public housing program, including Moving to Work (MTW) Agencies. However, the GRHC owns or operates fewer than 250 public housing units may continue to lease public housing units to non-assisted over-income families in accordance with Section 3(a)(5) of the 1937 Act and 24 CFR 960.503. The over-income limit does not apply to these unassisted families whose annual income exceeds the applicable low-income limit at the time of initial occupancy.

The GRHC will lease to an over-income limit family, if all the following conditions are satisfied

(24 CFR 960.503):

- There are no eligible low-income families on the GRHC waiting list or applying for public housing assistance when the unit is leased to an over-income family;
- The GRHC has publicized availability of the unit for rental to eligible low-income families, including publishing public notice of such availability in a newspaper of general circulation in the jurisdiction at least thirty days before offering the unit to an over-income family;
- The over-income family rents the unit on a month-to-month basis for a rent that is not less than the GRHC's cost to operate the unit;
- The lease to the over-income family provides that the family agrees to vacate the unit when needed for rental to an eligible family; and
- The GRHC gives the over-income family at least thirty days notice to vacate the unit when the unit is needed for rental to an eligible family.

#### *Over-Income Families during Occupancy*

In accordance with 24 CFR 960.507(c)(1), the GRHC will provide written notice to the OI family no later than 30 calendar days after the GRHC'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 will 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©(1) for more information.

If the GRHC determines the family has continued to exceed the over-income limit for 12 consecutive months after the initial OI determination, the GRHC will provide written notification pursuant to 24 CFR 960.507(c)(2) no later than 30 days after the GRHC'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 GRHC'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. iii. If the GRHC determines the family has continued to exceed the over-income limit for 24 consecutive months after the initial OI determination, then the GRHC will provide written notification pursuant to 24 CFR 960.507(c)(3) no later than 30 days after the GRHC'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 GRHC 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 GRHC's continued occupancy policies under 960.507(d). See 24 CFR 960.507(c)(3) for more information.

Once a GRHC determines through an annual reexamination or an interim reexamination that a

family's income exceeds the applicable OI limit, the GRHC will 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. GRHCs 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 GRHC 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 GRHC 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. The GRHC will rely on the most current over-income limits. These numbers will be updated and posted at the sites within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted. For families larger than 8 persons, the over-income limit will be calculated by multiplying the applicable very-low-income limit by 2.4.

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| <b>EXHIBIT 16-1: SAMPLE Notice of Occupancy Rights Under the Violence Against Women Act, Form HUD-5380</b> |
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**GRAND RAPIDS HOUSING COMMISSION**

**Notice of Occupancy Rights under the Violence Against Women Act<sup>8</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>9</sup> The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program 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 the housing choice voucher program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the housing choice voucher program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking. Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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<sup>8</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>9</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.

### **Removing the Abuser or Perpetrator from the Household**

The PHA 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 the PHA chooses to remove the abuser or perpetrator, the PHA 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, the GRHC will 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, the GRHC will follow federal, state, and local eviction procedures. In order to divide a lease, the PHA 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, the PHA 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, the PHA 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.

The PHA 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. The PHA's emergency transfer plan provides further information on emergency transfers, and the GRHC will 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**

The PHA 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 the GRHC will be in writing, and the GRHC will 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. The PHA 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 the PHA as documentation. It is your choice which of the following to submit if the PHA 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 the PHA 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 the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA 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), the PHA 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, the PHA does not have to provide you with the protections contained in this notice.

**Confidentiality**

The GRHC will 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.

The GRHC will not allow any individual administering assistance or other services on behalf of the PHA (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.

The GRHC will not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- ☐ You give written permission to the PHA to release the information on a time limited basis.
- ☐ The PHA 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 the PHA or your landlord to release the information.

VAWA does not limit the PHA'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, the PHA 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 the PHA 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 the PHA can demonstrate the above, the PHA 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 **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

**For Additional Information**

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, the GRHC will make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

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 **[Insert contact information for relevant local organizations]**.

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 **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**



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| <b>EXHIBIT 16-2: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation,<br/>Form HUD-5382</b> |
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**CERTIFICATION OF**  
0286

**U.S. Department of Housing**

**OMB Approval No. 2577-**

**DOMESTIC VIOLENCE, and Urban Development  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**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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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.

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| <p><b>EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, or STALKING (HCV VERSION)</b></p> |
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Attachment: Certification form HUD-5382  
**GRAND RAPIDS HOUSING COMMISSION**

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**  
**Housing Choice Voucher Program**

**Emergency Transfers**

The PHA 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),<sup>10</sup> the PHA 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.<sup>11</sup> The ability of the PHA 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 the PHA 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 the **public housing and housing choice voucher (HCV) programs** are 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 the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

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<sup>10</sup>Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>11</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.

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 the PHA'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**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA 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 or persons that committed an act 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 the PHA'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**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA 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. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA 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, the PHA 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.

### **Emergency Transfers: Housing Choice Voucher (HCV) Program**

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA
- **[Insert other programs the PHA provides, such as LIHTC or HOME]**

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

### **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, and Incest National Network's National Sexual Assault Hotline at 1-800-656-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:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

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| <b>EXHIBIT 16-4: Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, FORM HUD-5383</b> |
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EMERGENCY TRANSFER  
0286

U.S. Department of Housing

OMB Approval No. 2577-

REQUEST FOR CERTAIN  
06/30/2017

and Urban Development

Exp.

**VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**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) \_\_\_\_\_

## MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

### GRAND RAPIDS HOUSING COMMISSON NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

#### **Purpose**

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through [insert name of housing provider] HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

#### **Denial of Tenancy**

*Protections for applicants:* Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

#### **Eviction**

*Protections for HCV participants:* Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if 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 (24 CFR 5.2005(b)(2)).

*Limitations of VAWA protections:*

a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

- 1) 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
- 2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)



i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of 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. (See 24 CFR 5.2003.)

ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

#### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).) If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:

2) Signed by the applicant or tenant; and

3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

### **Moves**

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

### **Lease Bifurcation**

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases. To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

### **Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse**

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to 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.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

### **Confidentiality**

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim). The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

## **Service Providers**

[insert name of housing provider] has extensive relationships with local service providers.

[insert name of housing provider] staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in [insert name of housing provider] Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

## **Definitions**

**Actual and imminent threat** refers to 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.

**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.

**Bifurcate** means 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.

**Dating violence** means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (i) The length of the relationship;
  - (ii) The type of relationship; and
  - (iii) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" 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.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means 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.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

## **Attached:**

Legal services and the domestic violence resources for the Metro area  
Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking  
[insert name of housing provider] VAWA Notice of Occupancy Rights

## **GLOSSARY**

### **A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

|                 |   |
|-----------------|---|
| <b>AAF</b>      | Annual adjustment factor (published by HUD in the <i>Federal Register</i> and used to compute annual rent adjustments)          |
| <b>ACC</b>      | Annual contributions contract   |
| <b>ADA</b>      | Americans with Disabilities Act of 1990   |
| <b>AIDS</b>     | Acquired immune deficiency syndrome   |
| <b>BR</b>       | Bedroom   |
| <b>CDBG</b>     | Community Development Block Grant (Program)   |
| <b>CFR</b>      | Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”) |
| <b>CPI</b>      | Consumer price index (published monthly by the Department of Labor as an inflation indicator)                                   |
| <b>DAYS</b>     | Calendar days, unless other wise noted.   |
| <b>EID</b>      | Earned income disallowance  |
| <b>EIV</b>      | Enterprise Income Verification  |
| <b>FDIC</b>     | Federal Deposit Insurance Corporation   |
| <b>FHA</b>      | Federal Housing Administration (HUD Office of Housing)  |
| <b>FHEO</b>     | Fair Housing and Equal Opportunity (HUD Office of)  |
| <b>FICA</b>     | Federal Insurance Contributions Act (established Social Security taxes)   |
| <b>FMR</b>      | Fair market rent  |
| <b>FR</b>       | Federal Register  |
| <b>FSS</b>      | Family Self-Sufficiency (Program)   |
| <b>FY</b>       | Fiscal year   |
| <b>FYE</b>      | Fiscal year end   |
| <b>GAO</b>      | Government Accountability Office  |
| <b>GR</b>       | Gross rent  |
| <b>HA</b>       | Housing authority or housing agency   |
| <b>HAP</b>      | Housing assistance payment  |
| <b>HCV</b>      | Housing choice voucher  |
| <b>HQS</b>      | Housing quality standards   |
| <b>HUD</b>      | Department of Housing and Urban Development   |
| <b>HUDCLIPS</b> | HUD Client Information and Policy System  |
| <b>IPA</b>      | Independent public accountant   |
| <b>IRA</b>      | Individual retirement account   |
| <b>IRS</b>      | Internal Revenue Service  |
| <b>JTPA</b>     | Job Training Partnership Act  |
| <b>LBP</b>      | Lead-based paint  |
| <b>LEP</b>      | Limited English proficiency   |
| <b>LIPH</b>     | Low Income Public Housing   |
| <b>MSA</b>      | Metropolitan statistical area (established by the U.S. Census Bureau)   |
| <b>MTCS</b>     | Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)                                 |
| <b>MTW</b>      | Moving to Work  |
| <b>NOFA</b>     | Notice of funding availability  |
| <b>OGC</b>      | HUD's Office of General Counsel   |
| <b>OIG</b>      | HUD's Office of Inspector General   |

|              |   |
|--------------|---|
| <b>OMB</b>   | Office of Management and Budget   |
| <b>PASS</b>  | Plan to Achieve Self-Support  |
| <b>PHA</b>   | Public housing agency   |
| <b>PIC</b>   | PIH Information Center  |
| <b>PIH</b>   | (HUD Office of) Public and Indian Housing   |
| <b>PS</b>    | Payment standard  |
| <b>QC</b>    | Quality control   |
| <b>REAC</b>  | (HUD) Real Estate Assessment Center   |
| <b>RFP</b>   | Request for proposals   |
| <b>RFTA</b>  | Request for tenancy approval  |
| <b>RIGI</b>  | Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level) |
| <b>SEMAP</b> | Section 8 Management Assessment Program   |
| <b>SRO</b>   | Single room occupancy   |
| <b>SSA</b>   | Social Security Administration  |
| <b>SSI</b>   | Supplemental security income  |
| <b>SWICA</b> | State wage information collection agency  |
| <b>TANF</b>  | Temporary assistance for needy families   |
| <b>TPV</b>   | Tenant protection vouchers  |
| <b>TR</b>    | Tenant rent   |
| <b>TTP</b>   | Total tenant payment  |
| <b>UA</b>    | Utility allowance   |
| <b>UFAS</b>  | Uniform Federal Accessibility Standards   |
| <b>UIV</b>   | Upfront income verification   |
| <b>URP</b>   | Utility reimbursement payment   |
| <b>VAWA</b>  | Violence Against Women Reauthorization Act of 2013  |

## **B. GLOSSARY OF SUBSIDIZED HOUSING TERMS**

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

**Adjusted income.** Annual income, less allowable HUD deductions and allowances.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**Administrative plan.** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

**Admission.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

**Affiliated individual.** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual.** Happening once a year.

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Annual income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.

**Area exception rent.** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

**As-paid states.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets.** (See *net family assets*.)

**Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

**Biennial.** Happening every two years.

**Bifurcate.** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

**Budget authority.** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**Child.** A member of the family other than the family head or spouse who is under 18 years of age.

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

**Citizen.** A citizen or national of the United States.

**Cohead.** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

**Common space.** In shared housing, the space available for use by the assisted family and other occupants of the unit.

**Computer match.** The automated comparison of databases containing records about individuals.

**Confirmatory review.** An on-site review performed by HUD to verify the management performance of a PHA.

**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Congregate housing.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

**Contiguous MSA.** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**Continuously assisted.** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**Contract authority.** The maximum annual payment by HUD to a PHA for a funding increment.

**Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:



- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Dependent child.** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family.** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person.** See *person with disabilities*.

**Disallowance.** Exclusion from annual income.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

**Domestic violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**Drug-related criminal activity.** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

**Economic self-sufficiency program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

**Elderly family.** A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly person.** An individual who is at least 62 years of age.

**Eligible family.** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

***Employer identification number (EIN).*** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

***Evidence of citizenship or eligible status.*** The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

***Extremely low-income family.*** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

***Facility.*** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

***Fair Housing Act.*** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

***Fair market rent (FMR).*** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

***Family.*** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

***Family rent to owner.*** In the voucher program, the portion of rent to owner paid by the family.

***Family self-sufficiency program (FSS program).*** The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

***Family share.*** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

***Family unit size.*** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

***Federal agency.*** A department of the executive branch of the federal government.

***Foster child care payment.*** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

***Full-time student.*** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

***Funding increment.*** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

***Gender identity.*** Actual or perceived gender-related characteristics.

***Gross rent.*** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

**HAP contract.** The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Household.** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** See *public housing agency*.

**Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The U.S. Department of Housing and Urban Development.

**Imputed asset.** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

**Imputed asset income.** The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income for eligibility.** Annual income.

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages, and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** See *person with disabilities*.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Institution of higher education.** An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

**Jurisdiction.** The area in which the PHA has authority under state and local law to administer the program.

**Landlord.** Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Living/sleeping room.** A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

**Local preference.** A preference used by the PHA to select among applicant families.

**Low-income family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

**Medical expenses.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of *cooperative*.

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

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

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Notice of funding availability (NOFA).** For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding.

This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Overcrowded.** A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Person with disabilities.** *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

**Portability.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Previously unemployed.** With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

**Private space.** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the “processing entity” is the “responsible entity.”

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

**Public housing agency (PHA).** Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Qualified family** (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least \$500.

**Qualified census tract.** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining member of the tenant family.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended.

**Section 214 covered programs.** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

**Security deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

**Sexual assault.** Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

**Sexual orientation.** Homosexuality, heterosexuality or bisexuality.

**Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

**Single person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

**Social security number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

**State wage information collection agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension.** The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling*.

**Tax credit rent.** With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

**Tenancy addendum.** For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See *family rent to owner*.

**Term of lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.



**Total tenant payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utilities.** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

**Utility allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Very low-income family.** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**Veteran.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**Violence Against Women Reauthorization Act (VAWA) of 2013.** Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (housing choice voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

**Voucher program.** The housing choice voucher program.

**Waiting list.** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

**Waiting list admission.** An admission from the PHA waiting list.

**Welfare assistance.** Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's

ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.