



PUBLIC HOUSING
ADMISSIONS AND CONTINUED OCCUPANCY POLICY
(ACOP)

ADOPTED BY RESOLUTION NO. 6222 - March 15, 2016

Table of Contents

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

PART I: THE MONTGOMERY HOUSING AUTHORITY OR MIXED-FINANCE OWNER

I.A.	OVERVIEW	1-1
1.B.	MHA MISSION AND VISION STATEMENT AND CORE VALUES.....	1-1

PART II: THE PUBLIC HOUSING PROGRAM

II.A.	OVERVIEW AND HISTORY OF THE PROGRAM.....	1-1
II.B.	PUBLIC HOUSING PROGRAM BASICS.....	1-2
II.C.	PUBLIC HOUSING PARTNERSHIPS	1-2
II.D.	APPLICABLE REGULATIONS	1-2

PART III: MHA OR MIXED-FINANCE OWNER ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

III.A.	OVERVIEW AND PURPOSE OF THE POLICY.....	1-2
III.B.	CONTENTS OF THE POLICY	1-3
III.C.	UPDATING AND REVISING THE POLICY.....	1-3

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION

I.A.	OVERVIEW	2-1
I.B.	NONDISCRIMINATION.....	2-1

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

II.A.	OVERVIEW	2-3
II.B.	DEFINITION OF REASONABLE ACCOMMODATION.....	2-3
II.C.	REQUEST FOR AN ACCOMMODATION.....	2-4
II.D.	VERIFICATION OF DISABILITY	2-4
II.E.	APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION.....	2-5
II.F.	PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS	2-6
II.G.	PHYSICAL ACCESSIBILITY	2-7
II.H.	DENIAL OR TERMINATION OF ASSISTANCE.....	2-7

Table of Contents

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

III.A. OVERVIEW	2-8
III.B. ORAL INTERPRETATION.....	2-8
III.C. WRITTEN TRANSLATION.....	2-9
III.D. IMPLEMENTATION PLAN	2-9

EXHIBITS

2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS	2-10
---	------

Chapter 3

ELIGIBILITY

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

I.A. OVERVIEW	3-1
I.B. FAMILY AND HOUSEHOLD	3-1
I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY	3-1
I.D. HEAD OF HOUSEHOLD.....	3-2
I.E. SPOUSE, COHEAD, AND OTHER ADULT	3-2
I.F. DEPENDENT	3-2
I.G. FULL-TIME STUDENT	3-3
I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY	3-3
I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY	3-3
I.J. GUESTS	3-4
I.K. FOSTER CHILDREN AND FOSTER ADULTS	3-4
I.L. ABSENT FAMILY MEMBERS	3-5
I.M. LIVE-IN AIDE	3-6

PART II: BASIC ELIGIBILITY CRITERIA

II.A. INCOME ELIGIBILITY AND TARGETING.....	3-6
II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS	3-7
II.C. BIRTH CERTIFICATE AND SOCIAL SECURITY NUMBERS	3-9
II.D. FAMILY CONSENT TO RELEASE OF INFORMATION.....	3-10

PART III: DENIAL OF ADMISSION

III.A. OVERVIEW	3-10
III.B. REQUIRED DENIAL OF ADMISSION	3-11
III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION	3-12
III.D. SCREENING	3-13

Table of Contents

III.E. DENIAL.....	3-16
III.F. CRITERIA FOR DECIDING TO DENY ADMISSION	3-17
III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING	3-18
III.H. NOTICE OF ELIGIBILITY OR DENIAL.....	3-21

EXHIBITS

3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES.....	3-22
--	------

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I: THE APPLICATION PROCESS

I.A. OVERVIEW	4-1
I.B. APPLYING FOR ASSISTANCE.....	4-1
I.C. ACCESSIBILITY OF THE APPLICATION PROCESS.....	4-1
I.D. PLACEMENT ON THE WAITING LIST	4-2

PART II: MANAGING THE WAITING LIST

II.A. OVERVIEW	4-3
II.B. ORGANIZATION OF THE WAITING LIST	4-3
II.C. OPENING AND CLOSING THE WAITING LIST	4-4
II.D. FAMILY OUTREACH	4-4
II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES	4-4
II.F. UPDATING THE WAITING LIST	4-5

PART III: TENANT SELECTION

III.A. OVERVIEW	4-6
III.B. SELECTION METHOD.....	4-6
III.C. NOTIFICATION OF SELECTION	4-10
III.D. THE APPLICATION INTERVIEW	4-11
III.E. FINAL ELIGIBILITY DETERMINATION	4-12

Table of Contents

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

PART I: OCCUPANCY STANDARDS

I.A.	OVERVIEW	5-1
I.B.	DETERMINING UNIT SIZE.....	5-1
I.C.	EXCEPTIONS TO OCCUPANCY STANDARDS	5-2

PART II: UNIT OFFERS

II.A.	OVERVIEW	5-3
II.B.	MAKING UNIT OFFERS.....	5-3
II.C.	REMOVING APPLICANT NAMES FROM THE WAITING LIST	5-4
II.D.	REFUSALS OF UNIT OFFERS	5-5
II.E.	ACCESSIBLE UNITS.....	5-6

Chapter 6

INCOME AND RENT DETERMINATIONS

PART I: ANNUAL INCOME

I.A.	OVERVIEW	6-1
I.B.	HOUSEHOLD COMPOSITION AND INCOME	6-1
I.C.	ANTICIPATING ANNUAL INCOME.....	6-3
I.D.	EARNED INCOME.....	6-5
I.E.	EARNED INCOME DISALLOWANCE.....	6-7
I.F.	BUSINESS INCOME.....	6-9
I.G.	ASSETS	6-10
I.H.	PERIODIC PAYMENTS	6-15
I.I.	PAYMENTS IN LIEU OF EARNINGS	6-16
I.J.	WELFARE ASSISTANCE	6-16
I.K.	PERIODIC AND DETERMINABLE ALLOWANCES.....	6-17
I.L.	ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME.....	6-18

PART II: ADJUSTED INCOME

II.A.	INTRODUCTION	6-20
II.B.	DEPENDENT DEDUCTION.....	6-20
II.C.	ELDERLY OR DISABLED FAMILY DEDUCTION	6-21
II.D.	MEDICAL EXPENSES DEDUCTION	6-21
II.E.	DISABILITY ASSISTANCE EXPENSES DEDUCTION.....	6-22
II.F.	CHILD CARE EXPENSE DEDUCTION.....	6-24
II.G.	PERMISSIVE DEDUCTIONS.....	6-26

Table of Contents

PART III: CALCULATING RENT

III.A.	OVERVIEW OF INCOME-BASED RENT CALCULATIONS.....	6-26
III.B.	FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT	6-27
III.C.	UTILITY ALLOWANCES	6-29
III.D.	PRORATED RENT FOR MIXED FAMILIES.....	6-30
III.E.	FLAT RENTS AND FAMILY CHOICE IN RENTS	6-31

EXHIBITS

6-1:	ANNUAL INCOME EXCLUSIONS	6-33
6-2:	TREATMENT OF FAMILY ASSETS	6-37
6-3:	EARNED INCOME DISALLOWANCE.....	6-37
6-4:	THE EFFECT OF WELFARE BENEFIT REDUCTION.....	6-39

Chapter 7

VERIFICATION

PART I: GENERAL VERIFICATION REQUIREMENTS

I.A.	FAMILY CONSENT TO RELEASE OF INFORMATION.....	7-1
I.B.	OVERVIEW OF VERIFICATION REQUIREMENTS	7-1
I.C.	UP-FRONT INCOME VERIFICATION (UIV)	7-2
I.D.	THIRD-PARTY WRITTEN AND ORAL VERIFICATION	7-4
I.E.	SELF-CERTIFICATION.....	7-6

PART II: VERIFYING FAMILY INFORMATION

II.A.	VERIFICATION OF LEGAL IDENTITY.....	7-7
II.B.	SOCIAL SECURITY NUMBERS	7-7
II.C.	DOCUMENTATION OF AGE	7-8
II.D.	FAMILY RELATIONSHIPS	7-9
II.E.	VERIFICATION OF STUDENT STATUS	7-9
II.F.	DOCUMENTATION OF DISABILITY	7-10
II.G.	CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS.....	7-11
II.H.	VERIFICATION OF PREFERENCE STATUS	7-11

PART III: VERIFYING INCOME AND ASSETS

III.A.	EARNED INCOME.....	7-12
III.B.	BUSINESS AND SELF EMPLOYMENT INCOME.....	7-12
III.C.	PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS.....	7-12
III.D.	ALIMONY OR CHILD SUPPORT	7-13
III.E.	ASSETS AND INCOME FROM ASSETS.....	7-13

Table of Contents

III.F.	NET INCOME FROM RENTAL PROPERTY	7-14
III.G.	RETIREMENT ACCOUNTS	7-14
III.H.	INCOME FROM EXCLUDED SOURCES	7-15
III.I.	ZERO ANNUAL INCOME STATUS	7-15

PART IV: VERIFYING MANDATORY DEDUCTIONS

IV.A.	DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS	7-15
IV.B.	MEDICAL EXPENSE DEDUCTION	7-16
IV.C.	DISABILITY ASSISTANCE EXPENSES	7-17
IV.D.	CHILD CARE EXPENSES	7-18

EXHIBITS

7-1:	Summary of Documentation Requirements for Noncitizens	7-20
------	---	------

Chapter 8

LEASING AND INSPECTIONS

PART I: LEASING

I.A.	OVERVIEW	8-1
I.B.	LEASE ORIENTATION	8-1
I.C.	EXECUTION OF LEASE	8-1
I.D.	MODIFICATIONS TO THE LEASE	8-2
I.E.	SECURITY DEPOSITS	8-3
I.F.	PAYMENTS UNDER THE LEASE	8-3

PART II: INSPECTIONS

II.B.	TYPES OF INSPECTIONS.....	8-5
II.C.	NOTICE AND SCHEDULING OF INSPECTIONS	8-6
II.D.	INSPECTION RESULTS.....	8-7

Chapter 9

REEXAMINATIONS

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

I.A.	OVERVIEW	9-1
I.B.	SCHEDULING ANNUAL REEXAMINATIONS	9-1
I.C.	CONDUCTING ANNUAL REEXAMINATIONS	9-2
I.D.	EFFECTIVE DATES.....	9-3

Table of Contents

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

II.A. OVERVIEW	9-4
II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION.....	9-4
II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)	9-5

PART III: INTERIM REEXAMINATIONS

III.A. OVERVIEW	9-6
III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION.....	9-6
III.C. CHANGES AFFECTING INCOME OR EXPENSES.....	9-8
III.D. PROCESSING THE INTERIM REEXAMINATION.....	9-9

PART IV: RECALCULATING TENANT RENT

IV.A. OVERVIEW	9-10
IV.B. CHANGES IN UTILITY ALLOWANCES	9-10
IV.C. NOTIFICATION OF NEW TENANT RENT.....	9-10
IV.D. DISCREPANCIES.....	9-11

Chapter 10

PETS

PART I: ASSISTANCE ANIMALS

I.A. OVERVIEW	10-1
I.B. APPROVAL OF ASSISTANCE ANIMALS.....	10-1
I.C. CARE AND HANDLING.....	10-2

PART II: PET POLICIES FOR ALL DEVELOPMENTS

II.A. OVERVIEW	10-2
II.B. MANAGEMENT APPROVAL OF PETS	10-2
II.C. STANDARDS FOR PETS	10-3
II.D. PET RULES.....	10-5

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

III.A. OVERVIEW	10-8
III.B. PET DEPOSITS.....	10-8
III.C. OTHER CHARGES.....	10-9

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

Table of Contents

IV.A. OVERVIEW	10-10
IV.B. PET DEPOSITS	10-10
IV.C. NON-REFUNDABLE NOMINAL PET FEE	10-10
IV.D. OTHER CHARGES	10-11

Chapter 11

COMMUNITY SERVICE

PART I: COMMUNITY SERVICE REQUIREMENT

I.A. OVERVIEW	11-1
I.B. REQUIREMENTS	11-1
I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE	11-4
I.D. DOCUMENTATION AND VERIFICATION	11-5
I.E. NONCOMPLIANCE	11-6

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

EXHIBITS

11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY	11-9
11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(1) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE	11-13
11-3: MHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE	11-14

Chapter 12

TRANSFER POLICY

PART I: EMERGENCY TRANSFERS

I.A. OVERVIEW	12-1
I.B. EMERGENCY TRANSFERS	12-1
I.C. EMERGENCY TRANSFER PROCEDURES	12-1
I.D. COSTS OF TRANSFER	12-1

PART II: ADMINISTRATIVE TRANSFERS

II.A. OVERVIEW	12-2
II.B. TYPES OF MHA REQUIRED TRANSFERS	12-2
II.C. ADVERSE ACTION	12-4
II.D. COST OF TRANSFER	12-4

Table of Contents

PART III: TRANSFERS REQUESTED BY TENANTS

III.A. OVERVIEW	12-4
III.B. TYPES OF RESIDENT REQUESTED TRANSFERS	12-4
III.C. ELIGIBILITY FOR TRANSFER.....	12-5
III.D. SECURITY DEPOSITS	12-5
III.E. COST OF TRANSFER.....	12-5
III.F. HANDLING OF REQUESTS	12-5

PART IV: TRANSFER PROCESSING

IV.A. OVERVIEW	12-6
IV.B. TRANSFER LIST.....	12-6
IV.C. TRANSFER OFFER POLICY	12-7
IV.D. GOOD CAUSE FOR UNIT REFUSAL.....	12-7
IV.E. DECONCENTRATION	12-7
IV.F. REEXAMINATION POLICIES FOR TRANSFERS	12-8

Chapter 13

LEASE TERMINATIONS

PART I: TERMINATION BY TENANT

I.A. TENANT CHOOSES TO TERMINATE THE LEASE.....	13-1
---	------

PART II: TERMINATION BY MHA – MANDATORY

II.A. OVERVIEW	13-1
II.B. FAILURE TO PROVIDE CONSENT.....	13-1
II.C. FAILURE TO DOCUMENT CITIZENSHIP	13-1
II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS... 13-2	
II.E. FAILURE TO ACCEPT THE MHA’S OFFER OF A LEASE REVISION.....	13-2
II.F. METHAMPHETAMINE CONVICTION.....	13-2
II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS.....	13-2
II.H. DEATH OF A SOLE FAMILY MEMBER	13-3

PART III: TERMINATION BY MHA OR MIXED-FINANCE OWNER – OTHER AUTHORIZED REASONS

III.A. OVERVIEW	13-3
III.B. MANDATORY LEASE PROVISIONS.....	13-3
III.C. OTHER AUTHORIZED REASONS FOR TERMINATION.....	13-6
III.D. ALTERNATIVES TO TERMINATION OF TENANCY	13-8
III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY	13-9

Table of Contents

III.F. PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING	13-10
--	-------

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

IV.A. OVERVIEW	13-14
IV.B. CONDUCTING CRIMINAL RECORDS CHECKS	13-14
IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY	13-15
IV.D. LEASE TERMINATION NOTICE.....	13-15
IV.E. EVICTION.....	13-17
IV.F. NOTIFICATION TO POST OFFICE	13-17
IV.G. RECORD KEEPING	13-17

Chapter 14

GRIEVANCES AND APPEALS

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

I.A. OVERVIEW	14-1
I.B. INFORMAL HEARING PROCESS	14-1

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS	14-3
---	------

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

III.A. REQUIREMENTS.....	14-5
III.B. DEFINITIONS.....	14-6
III.C. APPLICABILITY.....	14-7
III.D. INFORMAL SETTLEMENT OF GRIEVANCE.....	14-7
III.E. PROCEDURES TO OBTAIN A HEARING	14-7
III.F. SELECTION OF HEARING OFFICER/PANEL	14-8
III.G. PROCEDURES GOVERNING THE HEARING	14-8
III.H. DECISION OF THE HEARING OFFICER/PANEL.....	14-11

Table of Contents

Chapter 15

PROGRAM INTEGRITY

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

I.A.	PREVENTING ERRORS AND PROGRAM ABUSE	15-1
I.B.	DETECTING ERRORS AND PROGRAM ABUSE	15-2
I.C.	INVESTIGATING ERRORS AND PROGRAM ABUSE	15-2

PART II: CORRECTIVE MEASURES AND PENALTIES

II.A.	UNDER- OR OVERPAYMENT.....	15-4
II.B.	FAMILY-CAUSED ERRORS AND PROGRAM ABUSE.....	15-4
II.C.	MHA OR MANAGING AGENT CAUSED ERRORS OR PROGRAM ABUSE.....	15-5
II.D.	CRIMINAL PROSECUTION	15-6
II.E.	FRAUD AND PROGRAM ABUSE RECOVERIES.....	15-7

Chapter 16

PROGRAM ADMINISTRATION

PART I: SETTING UTILITY ALLOWANCES

I.A.	OVERVIEW	16-1
I.B.	UTILITY ALLOWANCES	16-1
I.C.	SURCHARGES FOR MHA-FURNISHED UTILITIES	16-1
I.D.	NOTICE REQUIREMENTS	16-1
I.E.	REASONABLE ACCOMMODATION.....	16-2

PART II: ESTABLISHING FLAT RENTS

II.A.	OVERVIEW	16-2
II.B.	FLAT RENTS.....	16-2

PART III: FAMILY DEBTS TO MHA OR MIXED-FINANCE OWNER

III.A.	OVERVIEW	16-3
III.B.	REPAYMENT POLICY.....	16-3

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

IV.A.	OVERVIEW	16-5
IV.B.	PHAS INDICATORS	16-5
IV.C.	PHAS SCORING.....	16-6

Table of Contents

PART V: RECORD KEEPING

V.A. OVERVIEW	16-6
V.B. RECORD RETENTION.....	16-7
V.C. RECORDS MANAGEMENT	16-7

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

VIA. REPORTING REQUIREMENTS	16-8
-----------------------------------	------

PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

VII.A. OVERVIEW	16-9
VII.B. VAWA NOTIFICATION.....	16-9
VII.C. NOTIFICATION TO APPLICANTS.....	16-10
VII.D. NOTIFICATION TO TENANTS.....	16-10

EXHIBITS

16-1: SAMPLE NOTICE TO PUBLIC HOUSING APPLICANTS AND RESIDENTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA).....	16-10
---	-------

OTHER POLICIES

- A. Dwelling Lease
- B. Assistance Animal Policy
- C. Rent Collection Policy
- D. Smoke Detector Policy
- E. Outdoor Trash and Litter Policy (Revised)
- F. Swimming Pools, Outside Furniture/Grills, Antenna & T.V. Satellite Systems (Revised)
- G. Reserved Parking Spaces

Table of Contents

- H. Lock Change Policy
- I. Lock Out Policy
- J. Transfer Policy
- K. Repayment Agreement Policy
- L. Vandalism Policy
- M. Reasonable Accommodation Policy
- N. Loitering Policy
- O. Parking Violation & Towing Vehicle Policy
- P. Barbeque Grill Policy
- Q. Housekeeping and Maintenance Standards Policy
- R. Schedule of Tenant Charges
- S. Smoke Free Policy
- T. Use of Community Property Policy

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

PART I: THE MONTGOMERY HOUSING AUTHORITY OR MIXED-FINANCE OWNER

1-I.A. OVERVIEW

The Admission and Continued Occupancy Policy (ACOP) is established guidelines for the Montgomery Housing Authority (MHA) or Mixed-Finance Owner staff to follow in determining eligibility for admission to and continued occupancy of Public Housing. The basic guidelines for this policy are governed by requirements of the Department of Housing and Urban Development (HUD), with latitude for local policies and procedures.

1-1.B. MHA MISSION AND VISION STATEMENT AND CORE VALUES

Mission Statement: To create affordable, sustainable housing while improving the quality of life for families and encouraging independence; ***Vision Statement:*** Provide a strong foundation for families by becoming the preferred leader of affordable housing in the city of Montgomery; ***Core Values:*** Integrity, Trust, Leadership, Progress and Customer Service

PART II: THE PUBLIC HOUSING PROGRAM

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

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

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) - also known as the Public Housing Reform Act or Housing Act of 1998 - was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed HAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for HAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD contracts with MHA or Mixed-Finance Owner to administer programs in accordance with HUD regulations and provides an operating subsidy to MHA or Mixed-Finance Owner. MHA or Mixed-Finance Owner creates written policies that are consistent with HUD regulations. Among these policies is MHA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of MHA. Since MHA owns the public housing developments, MHA or Mixed-Finance Owner is the landlord. MHA or Mixed-Finance Owner will comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and MHA or Mixed-Finance Owner policies.

1-II.C. THE PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, MHA enters into a contractual relationship with HUD through the Annual Contribution Contract (ACC). MHA or Mixed-Finance Owner also enters into a contractual relationship with the tenant through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved - HUD, MHA or Mixed-Finance Owner, and the tenant - must play their important parts.

1-II.D. APPLICABLE REGULATIONS

This section provides a list of regulations applicable to the public housing program:

- **24CFR Part 5: General Program Requirements**
- **24 CFR Part 8: Nondiscrimination**
- **24 CFR Part 902: Public Housing Assessment System**
- **24 CFR Part 903: Public Housing Agency Plans**
- **24 CFR Part 945: Designated Housing**
- **24 CFR Part 960: Admission and Occupancy Policies**
- **24 CFR Part 965: MHA-Owned or Leased Projects - General Provisions**
- **24 CFR Part 966: Lease and Grievance Procedures**

PART III: MHA OR MIXED-FINANCE OWNER ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

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

The ACOP is MHA's or Mixed-Finance Owner written statement of policies used to carry out the housing program in accordance with federal law and regulations and HUD requirements. The ACOP contains policies that support the objectives contained in MHA's Annual and Five-Year Plan.

All issues related to public housing, not addressed in this ACOP, are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The

policies in this ACOP have been designed to ensure compliance with the consolidated Annual Contributions Contract (ACC) and all HUD-approved applications for program funding. MHA or Mixed-Finance Owner is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this policy, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

The ACOP covers MHA or Mixed-Finance Owner policies on the following subjects:

- The organization of the waiting list and how families are selected and offered available
- units, including any MHA or Mixed-Finance Owner admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening MHA or Mixed-Finance Owner waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to MHA or Mixed-Finance Owner of amounts the family owes MHA or Mixed-Finance Owner (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements; (Chapter 11)
- Policies and rules about safety and ownership of pets in public housing (Chapter 10).

1-III.C. UPDATING AND REVISING THE POLICY

MHA or Mixed-Finance Owner will revise this ACOP, as needed, to comply with changes in HUD regulations. The original policy and any changes must be approved by the Board of Commissioners of MHA, the pertinent sections included in MHA's Plan, and a copy provided to HUD.

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

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal law requires MHA or Mixed-Finance Owner to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. MHA or Mixed-Finance Owner will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted
- When more than one civil rights law applies to a situation, the laws will be read and applied together.

No state or local nondiscrimination laws or ordinances apply.

2-I.B. NONDISCRIMINATION

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

MHA or Mixed-Finance Owner shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”).

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

MHA or Mixed-Finance Owner will not discriminate on the basis of marital status or sexual orientation.

MHA or Mixed-Finance Owner will not use any of these factors to:

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

Providing Information to Families

MHA or Mixed-Finance Owner will take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, MHA or Mixed-Finance Owner will provide information to public housing applicant families about civil rights requirements.

Discrimination Complaints

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

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

MHA or Mixed-Finance Owner will attempt to remedy discrimination complaints made against MHA or Mixed-Finance Owner.

MHA or Mixed-Finance Owner will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

MHA or Mixed-Finance Owner will ensure that persons with disabilities have full access to MHA or Mixed-Finance Owner's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the Public Housing program [24 CFR 8].

MHA or Mixed-Finance Owner will/shall provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

MHA or Mixed-Finance Owner will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by MHA or Mixed-Finance Owner, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority.”

A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for MHA or Mixed-Finance Owner, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), MHA or Mixed-Finance Owner shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a MHA or Mixed-Finance Owner approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with MHA or Mixed-Finance Owner staff
- Displaying posters and other housing information in locations throughout MHA or Mixed-Finance Owner's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

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

The family must explain what type of accommodation is needed to provide the person with the disability full access to MHA or Mixed-Finance Owner's programs and services.

If the need for the accommodation is not readily apparent or known to MHA or Mixed-Finance Owner, the family must explain the relationship between the requested accommodation and the disability.

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

2-II.D. VERIFICATION OF DISABILITY

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

for waiting list preferences and income allowances.

Prior to providing an accommodation, MHA or Mixed-Finance Owner shall determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to MHA or Mixed-Finance Owner's programs and services.

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

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to MHA or Mixed-Finance Owner, MHA or Mixed-Finance Owner will verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, MHA or Mixed-Finance Owner will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party trained professional who is in a position to know about the individual's disability may provide verification of a disability.
- MHA or Mixed-Finance Owner will request only information that is necessary to evaluate the disability-related need for the accommodation. MHA or Mixed-Finance Owner may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

2-III.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

MHA or Mixed-Finance Owner will approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on MHA or Mixed-Finance Owner, or fundamentally alter the nature of MHA or Mixed-Finance Owner's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of MHA or Mixed-Finance Owner at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

After a request for an accommodation is presented, MHA or Mixed-Finance Owner will respond, in writing, within 10 business days.

If MHA or Mixed-Finance Owner denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal MHA or Mixed-Finance Owner's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If MHA or Mixed-Finance Owner denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of MHA or Mixed-Finance Owner's operations), MHA or Mixed-Finance Owner will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If MHA or Mixed-Finance Owner believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, MHA or Mixed-Finance Owner will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal MHA or Mixed-Finance Owner's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

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

MHA or Mixed-Finance Owner shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

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

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

MHA or Mixed-Finance Owner will comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2006-13
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

MHA or Mixed-Finance Owner's policies concerning physical accessibility shall be readily available to applicants and resident families. They can be found in three key documents.

- The Admissions and Continued Occupancy Policy (ACOP), describes the key policies that govern MHA or Mixed-Finance Owner's responsibilities with regard to physical accessibility.
- Notice PIH 2006-13 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- MHA or Mixed-Finance Owner Plan provides information about self-evaluation, needs assessment, and transition plans.

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

MHA or Mixed-Finance Owner's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

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

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

In addition, MHA or Mixed-Finance Owner will provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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

2-III.A. OVERVIEW

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

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

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

In order to determine the level of access needed by LEP persons, MHA or Mixed-Finance Owner will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to MHA or Mixed-Finance Owner and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue financial burdens on MHA or Mixed-Finance Owner.

2-III.B. ORAL INTERPRETATION

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

MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner will encourage the use of

qualified community volunteers.

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

2-III.C. WRITTEN TRANSLATION

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

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

Provide written translations of vital documents for each eligible LEP language group that constitutes 20 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 20 percent trigger, MHA or Mixed-Finance Owner will not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

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

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

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

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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities **does not** include:

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

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this

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

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

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

Chapter 3

ELIGIBILITY

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

The terms *family* and *household* have different meanings in the public housing program.

Family

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

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

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

Household

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

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

Family Break-up

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

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

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

In the absence of a judicial decision or an agreement among the original family members, MHA will determine which family retains their placement on the waiting list, or will continue in occupancy taking 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) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

Remaining Member of a Tenant Family

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

3-I.D. HEAD OF HOUSEHOLD

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

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

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

A family may have a spouse or co-head, but not both. *Spouse* means the marriage partner of the head of household.

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

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

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

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

3-I.F. DEPENDENT

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, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MHA will make the determination based on available documents such as court orders, or an IRS, form 1040 (supporting documentation) return showing which family has claimed the child as a dependent for income tax purposes.

3-I.G. FULL-TIME STUDENT

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 co-head, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

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

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

Near-Elderly Persons - A *near-elderly person* is a person who is 50-61 years of age.

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

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY

Persons with Disabilities

Special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter.

As discussed in Chapter 2, MHA will make all aspects of the public housing program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities.

Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

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

3-I.J. GUESTS

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

A resident family must notify MHA when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period, with the written permission of the MHA.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

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

Former residents who have been evicted are not permitted as overnight guests. Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone.

The term *foster child* is not specifically defined by the regulations. Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction.

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

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

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 MHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

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

Absent Head, Spouse, or Co-head

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

Individuals Confined for Medical Reasons

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

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

Return of Permanently Absent Family Members

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

3-I.M. LIVE-IN AIDE

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

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

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

A family's request for a live-in aide will be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request—**subject to MHA verification**— at each annual reexamination.

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

MHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if:

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

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

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

Types of Low-Income Families

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

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

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility

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

Using Income Limits for Targeting

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

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

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during MHA fiscal year
- Ten percent of waiting list admission to MHA's housing choice voucher program during MHA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

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

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

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

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

Declaration

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

U.S. Citizens and Nationals

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

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

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with MHA 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.

Ineligible Noncitizens

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

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

Mixed Families

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

Ineligible Families

A MHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member. Otherwise, no individual or family may be assisted prior to the affirmative establishment by MHA that the individual or at least one family member is eligible.

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

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

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with MHA. The informal hearing with MHA will be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process. Informal hearing procedures are contained in Chapter 14.

Timeframe for Determination of Citizenship Status

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

If an individual qualifies for a time extension for the submission of required documents, MHA will grant such an extension for no more than 30 days.

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

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

3-II.C. SOCIAL SECURITY NUMBERS

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the

documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

MHA will deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow MHA to obtain information that MHA has determined is necessary in administration of the public housing program.

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, will be denied admission. In addition, HUD requires MHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. MHA's authority in this area is limited by the Violence against Women Reauthorization Act of 2005 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking.

This part covers the following topics:

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

3-III.B. REQUIRED DENIAL OF ADMISSION

MHA will establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if MHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that MHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, MHA may choose to continue that prohibition for a longer period of time.

MHA will deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 5 years for drug-related criminal behavior. MHA may admit an otherwise-eligible family if the household member has completed a MHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).
 - MHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal behavior, if MHA is able to verify that the household member who engaged in the criminal behavior has completed a supervised drug rehabilitation program approved by MHA, or the person who committed the crime is no longer living in the household.
- MHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.
 - *Currently engaged in* is defined as any use of illegal drugs during the previous six months.
- MHA 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, MHA will consider all credible evidence, including but not limited to, any record of convictions, arrests (supported by documentation, other than the arrest record), or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. MHA will also consider evidence from treatment providers or community-based 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 or off 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. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

Criminal Activity

MHA is responsible for screening family behavior and suitability for tenancy. In doing so, MHA will consider an applicant's history of criminal behavior involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.

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

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

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.

Criminal activity that may threaten the health, safety, or welfare of other tenants.

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

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

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests (supported by documentation, other than the arrest record), or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years. A conviction for such activity will be given more weight than an arrest or an eviction.

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

Previous Behavior

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

In the event of the receipt of unfavorable information with respect to an applicant, MHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, MHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, or stalking.

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

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

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

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

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

3-III.D. SCREENING

Screening for Eligibility

MHA is authorized to obtain criminal conviction records from local law enforcement agencies to screen applicants for admission to the public housing program. In order to obtain access to the records MHA will require every applicant family to submit a consent form signed by each adult household member. MHA will not pass along to the applicant the costs of a criminal records check.

MHA will perform criminal background checks through local law enforcement for all adult household members. If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, MHA will request the applicant to clarify the inconclusiveness with supporting documentation.

MHA will perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided.

MHA will deny admission based on documented criminal behavior and/or on lifetime sex offender registration. MHA will send the subject of the record (and the applicant, if different) a copy of the criminal record and provide an opportunity to dispute the accuracy and relevance of the record prior to denial.

Obtaining Information from Drug Treatment Facilities

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

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

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

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

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

MHA will request information on household members whose criminal record indicates a pattern of criminal behavior and/or conviction for any criminal activity which may be a basis for denial of admission.

(Denial will be supported by documentation other than an arrest record)

MHA will also request for information for household members whose prior tenancy records indicate lease violations and/or evictions.

MHA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when

MHA has determined that the family will be denied admission based on a family member's drug-related criminal behavior, 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

MHA is responsible for the screening and selection of families to occupy public housing units. MHA will consider all relevant information and to ensure assisted housing is provided to those families that will adhere to lease obligations.

MHA 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 behavior 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

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

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

- *Disturbances of Neighbors*
- *Destruction of Property*
- *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*

Police and court records within the past ten years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest (supported by documentation, other than the arrest record) or conviction.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit (if supporting documentation can not be obtained).

3-III.E. DENIAL

Determined to be Ineligible

As a general rule applicants may be denied admission to MHA for the following time frame, which shall begin on the date of application, unless otherwise provided for herein below:

Denied admission for 3 years for the following:

- Past rental record
- Bad rent paying habits
- Bad housekeeping habits, in and outside of the unit
- Damages
- Disturbance
- Live-ins
- Demonstration of hostile behavior during the interview process that indicates that the applicant may be a threat to staff or residents.
- Being evicted from a Housing Authority, including having moved from a Housing Authority as a result of their lease being terminated by the Housing Authority for reasons other than as listed below
- Having other federally subsidized housing assistance terminated for reasons other than as listed

Denied admission for 5 years for the following:

- Person evicted from public housing, Indian Housing, Section-8, or Section 23 programs because of drug-related/criminal behavior (except drug trafficking) are ineligible for admission to public housing, beginning on the date of last reported act, completion of sentence and/or probation period (whichever is later)
- Fraud: (giving false/misrepresenting information on the application or during an interview is considered fraud)
- An arrest (supported by documentation, other than the arrest record) or conviction record that indicates that the applicant may be a threat and/or negative influence on other residents. The five years shall begin on the date of the last reported act, completion of sentence and/or probation period (whichever is later)

Denied admission for 10 years for the following:

- Conviction for drug trafficking
- Conviction for murder

Denied admission for life for the following:

- Any individual who is subject to a lifetime registration requirement under the state sex offender registration program
- Any individual who has been convicted of manufacturing or producing methamphetamine (commonly referred to as "speed or meth"), on or off public housing premises.

These time frames are only guidelines and MHA may deny admission to any individual whose behavior may adversely affect the health, safety or welfare of other resident or may admit persons who exhibit evidence of rehabilitation.

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

Evidence

MHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

Consideration of Circumstances

MHA will consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event MHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, MHAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

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

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

MHAs may impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon MHA request.

Reasonable Accommodation

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

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 607(2) of VAWA adds the following provision to Section 6 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the public housing program:

Every contract for contributions shall provide that . . . the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

Definitions

As 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 *domestic violence* includes 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.
- 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 *stalking* means:
 - 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.
- The term *immediate family member* means, with respect to a person –
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
 - Any other person living in the household of that person and related to that person by blood and marriage.

Notification

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

- A statement of the protection against denial provided by VAWA A description of MHA confidentiality requirements
- A request that an applicant wishing to claim this protection submit to MHA documentation meeting the specifications below with her or his request for an informal hearing (see section 14-I.B)

Documentation

Victim Documentation

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

- A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking
- A police or court record documenting the domestic violence, dating violence, or stalking
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

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.

Time Frame for Submitting Documentation

The applicant must submit the required documentation with her or his request for an informal hearing (see section 14-I.B) or must request an extension in writing at that time. If the applicant so requests, MHA will grant an extension of 10 business days and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If, after reviewing the documentation provided by the applicant, MHA determines that the family is eligible for assistance, no informal hearing will be scheduled, and MHA will proceed with admission of the applicant family.

MHA Confidentiality Requirements

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

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, MHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

3-III.H. NOTICE OF ELIGIBILITY OR DENIAL

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

If a MHA uses a criminal record (supported by documentation, other than the arrest record) or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before MHA can move to deny the application. In addition, a copy of the documentation must be provided to the subject of the record.

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

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B. Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.F.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities

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

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

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 impairment; or is regarded as having such impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

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

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes MHA or Mixed-Finance Owner's efforts to distribute and accept applications and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes MHA or Mixed-Finance Owner's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing will apply for admission to the program. As a part of MHA or Mixed-Finance Owner's application, MHA or Mixed-Finance Owner will include Form HUD-92006 "Supplement to Application for Federally Assisted Housing". Families may apply to multiple waiting lists, including site based waiting list in accordance with 4-II.B of this plan.

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

Families may apply for Public Housing through the MHA website, www.mhatoday.org. Families may obtain a housing application for Mixed-Finance Owner's from the offices during normal business hours.

Applications must be complete in order to be accepted by MHA or Mixed-Finance Owner for processing.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

MHA or Mixed-Finance Owner will take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard MHA or Mixed-Finance Owner application process.

Disabled Populations

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

Limited English Proficiency

Chapter 2 provides a full discussion on MHA or Mixed-Finance Owner's policies related to ensuring access to people with limited English proficiency (LEP)

4-I.D. PLACEMENT ON THE WAITING LIST

MHA or Mixed-Finance Owner will review each completed application received and make a preliminary assessment of the family's eligibility. MHA or Mixed-Finance Owner will place on the waiting list families for whom the list is open unless MHA or Mixed-Finance Owner determines the family to be ineligible. Where the family is determined to be ineligible, MHA or Mixed-Finance Owner will notify the family in writing. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants. No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

If MHA or Mixed-Finance Owner determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, MHA or Mixed-Finance Owner will send written notification of the ineligibility determination within 30 business days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14)

Eligible for Placement on the Waiting List

MHA or Mixed-Finance Owner will send written notification of the preliminary eligibility determination within 30 business days of receiving a completed application.

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

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

MHA or Mixed-Finance Owner 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. However, in these cases, the family must agree not to request a transfer for two (2) years after admission, unless they have a change in family size or composition.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

4-II.B. ORGANIZATION OF THE WAITING LIST

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

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

MHA or Mixed-Finance Owner has adopted community-wide waiting list and site-based waiting list. Site-based waiting list will allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations.

MHA or Mixed-Finance Owner will maintain site-based waiting lists for all mixed finance communities, elderly communities and communities where the Work Activity Policy has been implemented. Within the list, MHA or Mixed-Finance Owner designates subparts to easily identify who should be offered the next available unit (i.e. mixed populations, general occupancy, unit size, and accessible units).

MHA or Mixed-Finance Owner will maintain site-based waiting lists for all mixed-finance developments utilizing working preferences with income tiers, selection criteria are contained in 4-III.B Selection Method.

All families residing in public housing will be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that MHA or Mixed-Finance Owner operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs. Families will have the opportunity to apply to multiple waiting lists.

MHA or Mixed-Finance Owner will not merge the public housing waiting list with the waiting list for any other program that MHA or Mixed-Finance Owner operates.

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

Closing the Waiting List

MHA or Mixed-Finance Owner is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fill its developments. MHA or Mixed-Finance Owner may close the waiting list completely, or restrict intake by preference, type of development, or by size and type of dwelling unit.

MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner has particular preferences or other criteria that require a specific category of family, MHA or Mixed-Finance Owner may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. MHA or Mixed-Finance Owner should publish a notice in local newspapers of general circulation, minority media, and other suitable media outlets that MHA or Mixed-Finance Owner is reopening the waiting list. Such notice must comply with HUD fair housing requirements. MHA or Mixed-Finance Owner should specify who may apply, and where and when applications will be received.

MHA or Mixed-Finance Owner will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.

MHA or Mixed-Finance Owner will give public notice by publishing the relevant information in suitable media outlets.

4-II.D. FAMILY OUTREACH

MHA or Mixed-Finance Owner should conduct outreach as necessary to ensure that MHA or Mixed-Finance Owner has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that MHA or Mixed-Finance Owner is affirmatively furthering fair housing and complying with the Fair Housing Act.

MHA or Mixed-Finance Owner will monitor the characteristics of the population being served and the characteristics of the population as a whole in MHA or Mixed-Finance Owner'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 MHA or Mixed-Finance Owner, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

4-ILF. UPDATING THE WAITING LIST

Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to MHA or Mixed-Finance Owner's request for information or updates because of the family member's disability, MHA or Mixed-Finance Owner will, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation. See Chapter 2 for further information regarding reasonable accommodations.

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

To update the waiting list, MHA or Mixed-Finance Owner will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that MHA or Mixed-Finance Owner has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by MHA or Mixed-Finance Owner not later than 15 business days from the date of MHA or Mixed-Finance Owner letter.

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

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be resent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent MHA or Mixed-Finance Owner from making an eligibility determination; therefore no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the Executive Director may reinstate the family if s/he determines the lack of response was due to MHA or Mixed-Finance Owner error, or to circumstances beyond the family's control.

Removal from the Waiting List

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

If MHA or Mixed-Finance Owner determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner's decision.

PART III: TENANT SELECTION

4-III.A. OVERVIEW

MHA or Mixed-Finance Owner will establish tenant selection policies for families being admitted to public housing. MHA or Mixed-Finance Owner will not require any racial quotas for any developments. Income targeting is addressed under the Income Targeting section of this plan 4-III.B. MHA or Mixed-Finance Owner will not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations.

The order in which families will be selected from the waiting list depends on the selection method chosen by MHA or Mixed-Finance Owner and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

MHA or Mixed-Finance Owner will maintain a clear record of all information required to verify that the family is selected from the waiting list according to MHA or Mixed-Finance Owner's selection policies. MHA or Mixed-Finance Owner's policies are posted in places where MHA or Mixed-Finance Owner receives applications. MHA or Mixed-Finance Owner will provide a copy of its tenant selection policies upon request to any applicant or tenant. MHA or Mixed-Finance Owner may charge the family for providing a copy of its tenant selection policies.

4-III.B. SELECTION METHOD

MHA or Mixed-Finance Owner will provide the method for selecting applicant families from the waiting list, including the system of admission preferences that MHA or Mixed-Finance Owner will use.

Accessible Units

When selecting a family for a unit with accessible features, the MHA or Mixed-Finance Owner will give a preference to families that include persons with disabilities who can benefit from the accessible features. First preference will be given to existing resident families seeking a transfer and second preference will be given to applicant families. If a family without accessible needs is moved into a unit with accessible features, the family will be required to transfer to accommodate a family needing an accessible unit. The family not needing the accessible unit will be required to transfer within 30 days of notification. The MHA or Mixed-Finance Owner will be responsible for the cost of the transfer.

MHA or Mixed-Finance Owner is permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits MHA or Mixed-Finance Owner to establish other local preferences, at its discretion. Any local preferences established must be consistent with MHA or Mixed-Finance Owner plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

LOCAL PREFERENCES

An admission preference does not guarantee admission. Preferences establish the order of placement on the waiting list. Every applicant must still meet MHA or Mixed-Finance Owner selection criteria, before being offered a unit.

In order to bring higher income families into public housing, the MHA has established preferences for a community-wide waiting list and site-based waiting lists for all Mixed-Finance Communities and Public Housing Communities where the Work Activity Policy has been implemented. The site-based waiting lists includes a preference for “working” families, where the head, spouse, cohead, adult household member or sole member, is employed at least 30 hours per week. Families where the head, spouse, cohead, adult household member or sole member is a person age 62 or older, or is a person with disabilities, will be given the benefit of the working preference.

The MHA will implement the following preferences:

- (1) Community-wide waiting list
- (2) Site-based waiting lists for all Mixed-Finance Communities and Public Housing Communities where Work Activity Policy has been implemented.
- (3) Relocation for families residing in a community with a Work Activity Policy

(1) Preference for community-wide waiting list:

Federally Declared Disaster:

Applicants displaced by a Federally declared disaster or a disaster to an MHA or Mixed-Finance Owner unit will qualify for this preference, if they apply within 120 days from the date the disaster is declared. They will be admitted in the following order:

- (a) Existing public housing residents and Housing Choice Voucher program participants.
- (b) Applicants who were not previously living in assisted housing but who meet all other

application criteria.

(2) Preference for site-based waiting list:

Federally Declared Disaster:

Applicants displaced by a Federally declared disaster or a disaster to an MHA or Mixed-Finance Owner unit will qualify for this preference if they apply within 120 days from the date the disaster is declared. They will be admitted in the following order:

- (a) Existing public housing residents and HCV program participants.
- (b) Applicants who were not previously living in assisted housing but who meet all other application criteria.

(3) Relocation for families residing in a community with a Work Activity Policy:

Relocation:

Families residing in a community where a Work Activity Policy is implemented, will receive a relocation preference and be placed at the top of the community-wide waiting list. If the family fails to meet the requirements of the Work Activity Policy, the family will be transferred or relocated to a community, where work activity is not a condition for continued occupancy.

Working Preferences and Income Tiers for applicants:

- (a) Working and former relocated residents of Tulane Court or Riverside Heights (Any head of household that moved from these communities under a HUD approved relocation plan)
- (b) New working applicants
- (c) Non-working former relocated residents of Tulane Court or Riverside Heights (Any head of household that moved from these communities under a HUD approved relocation plan)
- (d) Non-working new applicants

Note: Non-working is defined as: Social Security, SSI, Retirement benefits, VA benefits, Child Support, Alimony, Unemployment benefits, Pension, and other non-wage income that meets the approval of the Montgomery Housing Authority.

Working Preferences and Income Tiers for site-based waiting lists serving the mixed finance communities: Head of household, spouse, cohead, adult household member or sole member are actively employed and the employed person's needs are not included in any TANF payments the family may be receiving. The employed person(s) must work a minimum of thirty hours per week for 12 consecutive months, prior to applying for a unit. A family where the head, spouse, cohead, adult household member or sole member, is a person over 62 years of age or a person with disabilities will automatically qualify for the working preference. In addition the family is required to comply with the Work Activity Policy listed below.

If the head of household, spouse, cohead, adult household member or sole member become unemployed within 12 months of admission and afterward, the family will be given six months to become employed. If the family fails to obtain employment of at least 30 hours a week or fails to participate in a job training program and/or be engaged in educational opportunities, or be actively involved in a self-sufficiency program, MHA will transfer the family to an appropriate unit in another public housing community. If the family becomes unemployed as a result of becoming disabled, the tenant will be allowed to remain at the development. The cost of the

transfer will be paid for by the MHA.

Income Tiers: Mixed-Finance Communities

Applicants with income between 0 and 30% of Area Median Income (AMI): 40%

Applicants with income between 31 and 50% of AMI: 35%

Applicants with income between 51 and 60% of AMI: 25%

Work Activity Policy

In an effort to create affordable, sustainable housing, improve the quality of life for families and encourage independence, MHA has implemented a “Work Activity” policy that will require public housing residents, moving into a property that has been redeveloped or renovated within fifteen years, to be engaged in work activity. To be engaged in work activity you will have to be working at least 30 hours weekly at minimum wage or more or be engaged in a MHA approved job training program and/or a full-time student, as verified per semester, in order to receive continued occupancy within that development.

The Work Activity Policy applies to the following properties:

- (1) All Mixed-Finance Communities
- (2) Victor Tulane Gardens
- (3) Parks Place (formerly Cleveland Court)

A family where the head, spouse, cohead, adult household member or sole member is employed would be required to meet the requirement for work activity. All family members age 18 and older are required to be employed at least 20 hours weekly or be engaged in a MHA approved job training program and/or a full-time student, as verified per semester. Households where the head, spouse, cohead, adult household member or sole member is age 62 or older, or is a person with disabilities, would be eligible to reside at a development where work activity is a condition of admissions and continued occupancy.

If the family becomes unemployed, they would be given six months to become employed. If the family is receiving unemployment benefits this would be considered as being engaged in work activity. During this six month period the family would be required to participate in a MHA Self-Sufficiency program to receive assistance with their employment search.

If the head of household fails to obtain employment, of at least 30 hours a (adult family member 20 hours) a week, or fails to participate in a MHA approved job training program and/or be a full-time student, as verified per semester, MHA will transfer or relocate the family to an appropriate unit in another public housing community, where work activity is not a condition for continued occupancy. If the family becomes unemployed as a result of becoming disabled, the tenant will be allowed to remain at the development. The cost of the transfer will be paid for by the MHA.

Income Targeting Requirement

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to public housing during MHA or Mixed-Finance Owner’s fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, MHA or Mixed-Finance Owner may skip non-ELI families on the waiting list in order to select an ELI family.

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

Mixed Population Developments

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or MHA or Mixed-Finance Owner at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families. (Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].) MHA or Mixed-Finance Owner will give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. MHA or Mixed-Finance Owner will not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, MHA or Mixed-Finance Owner will first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. MHA or Mixed-Finance Owner will not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families

MHA or Mixed-Finance Owner will designate developments or portions of a public housing development specifically for elderly or disabled families. MHA or Mixed-Finance Owner will have a HUD-approved allocation plan before the designation may take place.

MHA or Mixed-Finance Owner will also apply any preferences that it has established for designated developments. If there are not enough elderly families to occupy the units in a designated elderly development, MHA or Mixed-Finance Owner will allow near-elderly families to occupy the units. (Near-elderly family means a family whose head, spouse, or co-head is at least 50 years old, but is less than 62.)

Any disabled or elderly family who declines/refuses to occupy or accept occupancy in designated housing for elderly or disabled families shall not lose their position or placement on the waiting list, because they desire to live in a traditional or mixed population community. However, this does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, MHA or Mixed-Finance Owner will notify the family.

MHA or Mixed-Finance Owner will notify the family by telephone and first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview;
- Who is required to attend the interview;
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation;
- Documents that must be provided at the interview to document eligibility for a preference, if applicable;
- Other documents and information that should be brought to the interview

If a notification letter is returned to MHA or Mixed-Finance Owner with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents MHA or Mixed-Finance Owner from making an eligibility determination; therefore no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

MHA or Mixed-Finance Owner will obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if MHA or Mixed-Finance Owner determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by MHA or Mixed-Finance Owner.

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

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

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to MHA or Mixed-Finance Owner.

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.

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, MHA or Mixed-Finance Owner will proceed with the interview. If MHA or

Mixed-Finance Owner determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, MHA or Mixed-Finance Owner will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, MHA or Mixed-Finance Owner will provide translation services in accordance with MHA or Mixed-Finance Owner's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact MHA or Mixed-Finance Owner in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, MHA or Mixed-Finance Owner will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner from making an eligibility determination, therefore MHA or Mixed-Finance Owner will not offer an informal hearing.

4-III.E. FINAL ELIGIBILITY DETERMINATION

MHA or Mixed-Finance Owner will verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including MHA or Mixed-Finance Owner suitability standards, MHA or Mixed-Finance Owner will make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined.

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

MHA or Mixed-Finance Owner will promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination.

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

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

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by MHA or Mixed-Finance Owner to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors that MHA or Mixed-Finance Owner will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, MHA or Mixed-Finance Owner may match characteristics of the family with the type of unit available, for example, number of bedrooms.

MHA or Mixed-Finance Owner will develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children.

MHA or Mixed-Finance Owner will determine the size of unit the family qualifies for under the occupancy standards,

MHA or Mixed-Finance Owner will not determine who shares a bedroom/sleeping room.

MHA or Mixed-Finance Owner's occupancy standards for determining unit size will be applied in a manner consistent with fair housing requirements.

MHA or Mixed-Finance Owner will use the same occupancy standards for each of its developments.

MHA or Mixed-Finance Owner's occupancy standards are as follows:

MHA or Mixed-Finance Owner will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, and children under age 6) will not be required to share a bedroom, although they may do so at the request of the family.

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

Single person families will be allocated a zero or one bedroom. Foster children will be included in determining unit size.

An unborn child will not be counted as a person in determining unit size. An infant, up to the age of two may share a bedroom with its parent(s).

A single pregnant woman will be assigned to a one-bedroom unit.

MHA or Mixed-Finance Owner will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	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

MHA or Mixed-Finance Owner will consider granting exceptions to the occupancy standards at the family’s request if MHA or Mixed-Finance Owner determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

When evaluating exception requests MHA or Mixed-Finance Owner will consider the size and configuration of the unit. In no case will MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner will encourage the resident to make the request in writing using a reasonable accommodation request form. However, MHA or Mixed-Finance Owner will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

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

MHA or Mixed-Finance Owner will notify the family of its decision within 10 business days of receiving the family's request.

PART II: UNIT OFFERS

5-II.A. OVERVIEW

In filling an actual or expected vacancy, MHA or Mixed-Finance Owner will offer the dwelling unit to an applicant in the appropriate sequence. MHA or Mixed-Finance Owner will offer the unit until it is accepted.

MHA or Mixed-Finance Owner 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. MAKING UNIT OFFERS

To assure equal opportunity and nondiscrimination on grounds of race, color, sex, sexual orientation, religion, national origin, disability, or familiar status in this policy, a **one-offer system** will be used to make unit offers.

- The first qualified applicant in sequence on the waiting list is made one-offer of a unit of appropriate size and type.
- If the applicant refuses a unit offer without good cause the date and time of their application will be changed to the date and time of the refusal and loss of any preference. Refusal because of good cause will not result in loss of current position on waiting list.

MHA or Mixed-Finance Owner will first match the unit available to the highest ranking applicant for a unit of that size, type and special features (if any), taking into account any designated housing. If two applicants need the same type and size of unit and have the same preference status, the applicant with the earlier date and time of application will receive the offer.

In the selection of a family for a unit with accessible features, MHA or Mixed-Finance Owner will give preference to families that include a person with disabilities who can benefit from the unit features. MHA or Mixed-Finance Owner will exhaust the entire waiting list to identify a family

needing a unit with accessible features before it offer an accessible unit to a family who does not need the accessible unit.

When offering an accessible/adaptable apartment to a non-disabled applicant, MHA or Mixed-Finance Owner will require the applicant to agree to move to an available non-accessible apartment within 30 days when a current resident or an applicant with disability needs the apartment.

Vacant elderly or disabled designated units will be offered to the near-elderly if there are no eligible elderly or disabled persons on the waiting list. Other families will be offered these units if no eligible near-elderly are on the waiting list.

The applicant must accept the vacancy offered within two working days of the date the offer is communicated by first class mail and or documented telephone call, confirmed by first class mail (or the method of communication designated by an applicant with disabilities) or be removed from the waiting list.

If more than one unit of the appropriate size and type is available, the first unit to be offered will be the unit that is anticipated to be ready for move-in first. If two units are anticipated to be ready for move-in on the same day, the first unit to be offered will be the unit that became vacant first.

The provisions of the deconcentration rule, contained within this policy, shall supersede the selection of applicants based on the date and time and local preference, if applicable, and allow MHA or Mixed-Finance Owner to skip families on the waiting list to accomplish this goal.

For every fiscal year, each MHA or Mixed-Finance Owner will reserve a percentage of its new admissions for families whose incomes do not exceed 30% of the median income. The goal for public housing will be 40% of new admissions. In reaching the admissions goals, MHA or Mixed-Finance Owner will avoid concentrating very low-income families in communities and comply with the deconcentration policy.

Applicants must accept or refuse a unit offer within 2 business days of the date of the unit offer. Offers made by telephone will be confirmed by letter.

5-II.C. REMOVING APPLICANT NAMES FROM THE WAITING LIST

To ensure vacant units are filled in a timely manner, MHA or Mixed-Finance Owner needs a waiting list that is accurate. While each applicant must keep MHA or Mixed-Finance Owner apprised of changes in address, phone number, income or other circumstances, no applicant shall be removed from the waiting list except when none of the following situations occurs:

- The applicant receives and accepts an offer of housing;
- The applicant requests in writing that his/her name be removed from the waiting list;
- The applicant is rejected, either because he/she is ineligible for public housing at the time of certification, or because he/she fails to meet the applicant selection criteria;
- The application is withdrawn because MHA or Mixed-Finance Owner attempted to contact the applicant and was unable to do so. In attempting to contact an applicant, the following methods shall be undertaken before an application may be withdrawn:
- The applicant will be sent a letter of continued interest by first class mail to the applicants last known address, asking the applicant to contact MHA or Mixed-Finance Owner within

2 business days;

- Person who fails to respond to MHA or Mixed-Finance Owner attempts to contact them because of verified situations related to a disability shall be entitled to a reasonable accommodation. In such circumstances, MHA or Mixed-Finance Owner shall reinstate these individuals to their former waiting list position;
- Families whose application are withdrawn or rejected must reapply for housing only when the waiting list is open. Families whose applications were rejected may not reapply for 12 months.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

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

Applicants may refuse to accept a unit offer for "*good cause*." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer and presents clear evidence ("good cause"), that acceptance of the offer will result in undue hardship not related to considerations of the applicant's race, color, national origin, sexual orientation etc.

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

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

The family demonstrates to MHA or Mixed-Finance Owner's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency.

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.

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.

MHA or Mixed-Finance Owner will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

When an applicant rejects the unit offer without good cause, MHA or Mixed-Finance Owner 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.

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 MHA or Mixed-Finance Owner opens the waiting list.

5-II.E. ACCESSIBLE UNITS

MHA or Mixed-Finance Owner has adopted suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant MHA or Mixed-Finance Owner will offer such units:

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

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, MHA or Mixed-Finance Owner will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, MHA or Mixed-Finance Owner 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.

Chapter 6

INCOME AND RENT DETERMINATIONS

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

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

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

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

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

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

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally an individual who is or is expected to be absent from the 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 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 MHA or Mixed-Finance Owner indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

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

Absent Head, Spouse, or Co-head

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

Individuals Confined for Medical Reasons

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

If there is a question about the status of a family member, MHA or Mixed-Finance Owner 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 must present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Joint Custody of Children

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same

dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MHA or Mixed-Finance Owner will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

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

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

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. In such cases MHA or Mixed-Finance Owner 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, the caretaker meets the requirements for admission. The caretaker must pass a criminal background screening.

6-I.C. ANTICIPATING ANNUAL INCOME

MHA or Mixed-Finance Owner will count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date." Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

MHA or Mixed-Finance Owner generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes MHA or Mixed-Finance Owner to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected.
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income).
- MHA or Mixed-Finance Owner believes that past income is the best available indicator of expected future income.

MHA or Mixed-Finance Owner will use HUD's Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance.

MHA or Mixed-Finance Owner will use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where MHA or Mixed-Finance Owner does not determine it is necessary to obtain additional third-party data.

When EIV is obtained and the family does not dispute the EIV employer data, MHA or Mixed-Finance Owner will use current tenant-provided documents to project annual income. When the

tenant-provided documents are pay stubs, MHA or Mixed-Finance Owner will make every effort to obtain current and consecutive pay stubs dated within the last 120 days.

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

If EIV or other UIV data is not available.

If the family disputes the accuracy of the EIV employer data, and/or If MHA or Mixed-Finance Owner determines additional information is needed.

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

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

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

Known Changes in Income

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

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases MHA or Mixed-Finance Owner will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 120 days of the reexamination interview date.

Projecting Income

MHA or Mixed-Finance Owner will not to use EIV quarterly wages to project annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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

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

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income

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

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

Children's Earnings

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

Certain Earned Income of Full-Time Students

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

Income of a Live-in Aide

Income earned by a live-in aide, as defined in, is not included in annual income. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

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

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

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income.

State and Local Employment Training Programs

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

MHA or Mixed-Finance Owner 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.”

MHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program.

In calculating the incremental difference, MHA or Mixed-Finance Owner will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with MHA or Mixed-Finance Owner interim reporting requirements.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991, are excluded from annual income. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance

The earned income disallowance is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE

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

Eligibility

This disallowance applies only to individuals in families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families.
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state

program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as onetime payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

Calculation of the Disallowance

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

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

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

Initial 12-Month Exclusion

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

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

Second 12-Month Exclusion and Phase-In

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

Lifetime Limitation

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

During the 48-month eligibility period, MHA or Mixed-Finance Owner will conduct an interim reexamination

each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Individual Savings Accounts

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

6-I.F. BUSINESS INCOME

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.”

Business Expenses

Net income is “gross income less business expense.”

To determine business expenses that may be deducted from gross income, MHA or Mixed-Finance Owner will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses, unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

MHA or Mixed-Finance Owner will not deduct from gross income expenses for business expansion.

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

MHA or Mixed-Finance Owner will deduct from gross income the amortization of capital indebtedness.

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means MHA or Mixed-Finance Owner will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

MHA or Mixed-Finance Owner will include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of \$2,000 to help a business get started, MHA or Mixed-Finance Owner will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid.

Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

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

6-I.G. ASSETS

General Policies *Income from Assets*

MHA or Mixed-Finance Owner will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, MHA or Mixed-Finance Owner 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) MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires MHA or Mixed-Finance Owner to make a distinction between an asset's market value and its cash value.

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

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transaction.

Lump-Sum Receipts

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

Imputing Income from Assets

When net family assets are \$5,000 or less, MHA or Mixed-Finance Owner will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, MHA or Mixed-Finance Owner will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

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

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, MHA or Mixed-Finance Owner will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, MHA or Mixed-Finance Owner will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value

MHA or Mixed-Finance Owner will count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

MHA or Mixed-Finance Owner may set a threshold below which assets disposed of for less than fair market value will not be counted.

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

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

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

Separation or Divorce

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

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

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

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

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

In determining the value of a savings account, MHA or Mixed-Finance Owner will use the current balance.

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

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, MHA or Mixed-Finance Owner will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), MHA or Mixed-Finance Owner will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

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

- Equity accounts in HUD homeownership programs
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands
- Real property and capital assets that are part of an active business or farming operation

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family

member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless MHA or Mixed-Finance Owner determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

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

Revocable Trusts

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

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt.

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, MHA or Mixed-Finance Owner will determine whether the money is accessible before retirement.

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

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

Personal Property

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

In determining the value of personal property held as an investment, MHA or Mixed-Finance Owner will use the family's estimate of the value. MHA or Mixed-Finance Owner may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

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

Necessary items of personal property are not considered assets.

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

Life Insurance

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

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

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

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

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

When a delayed-start payment is received and reported during the period in which MHA or Mixed-Finance Owner is processing an annual reexamination, MHA or Mixed-Finance Owner will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with MHA or Mixed-Finance

Owner.

Treatment of Overpayment Deductions from Social Security Benefits

MHA or Mixed-Finance Owner will make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, MHA or Mixed-Finance Owner will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone). Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income.
- MHA or Mixed-Finance Owner will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- Amounts received under the Low-Income Home Energy Assistance Program.
- Amounts received under the Child Care and Development Block Grant Act of 1990
- Earned Income Tax Credit (EITC) refund payments. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.).

6-I.I. PAYMENTS IN LIEU OF EARNINGS

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

6-I.J. WELFARE ASSISTANCE

Sanctions Resulting in the Reduction of Welfare Benefits

MHA or Mixed-Finance Owner will make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

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

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, MHA or Mixed-Finance Owner will include in annual income “imputed” welfare income. MHA or Mixed-Finance Owner will request that the welfare agency inform MHA or Mixed-Finance Owner when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

For special procedures related to grievance hearings based upon MHA or Mixed-Finance Owner denial of a family’s request to lower rent when the family experiences a welfare benefit reduction.

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero.

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES

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

Alimony and Child Support

MHA or Mixed-Finance Owner will count alimony or child support amounts awarded as part of a divorce or separation agreement.

MHA or Mixed-Finance Owner will count court-awarded amounts for alimony and child support unless the MHA or Mixed-Finance Owner will verify that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

MHA or Mixed-Finance Owner will count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family. Temporary, nonrecurring, or sporadic income and gifts are not counted.

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

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

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses.
- The full amount of student financial assistance paid directly to the student or to the educational institution.
- Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment **is not** considered student financial assistance and is included in annual income.
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program.
- 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).
- 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.
- Adoption assistance payments in excess of \$480 per adopted child.
- Refunds or rebates on property taxes paid on the dwelling unit.
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- Amounts specifically excluded by any other federal statute. It includes:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977
 - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973
 - (c) Payments received under the Alaska Native Claims Settlement Act
 - (d) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program
 - (f) Payments received under programs funded in whole or in part under the Job Training

Partnership Act (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998.

- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians.
- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands.
- (i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs.
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985.
- (k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980.
- (m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990.
- (n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991.
- (o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation.
- (p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990.
- (q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran.
- (r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act.
- (s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998.

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

MHA or Mixed-Finance Owner will deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (MHA or Mixed-Finance Owner) will deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

Anticipating Expenses

Generally, MHA or Mixed-Finance Owner will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), MHA or Mixed-Finance Owner will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, MHA or Mixed-Finance Owner will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. MHA or Mixed-Finance Owner may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

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

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

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

6-II.D. MEDICAL EXPENSES DEDUCTION

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

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

Definition of Medical Expenses

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

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

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

person with disabilities.

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

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

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

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, MHA or Mixed-Finance Owner will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When MHA or Mixed-Finance Owner determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members’ incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: “Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals,” but only if these items are directly related to permitting the disabled person or other family member to work.

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense.

The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

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

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

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

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

Payments to Family Members

No disability expenses may be deducted for payments to a member of a tenant family. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

6-II.F. CHILD CARE EXPENSE DEDUCTION

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

In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

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

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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

In evaluating the family’s request, MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner.

Furthering Education

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

Being Gainfully Employed

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

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income.” The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

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

MHA or Mixed-Finance Owner must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

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

Eligible Child Care Expenses

The type of care to be provided is determined by the tenant family. MHA or Mixed-Finance Owner may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

Allowable Child Care Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, MHA or Mixed-Finance Owner will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

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

To establish the reasonableness of child care costs, MHA or Mixed-Finance Owner will use the schedule of child care costs from the local welfare agency. Families may present, and MHA or Mixed-Finance Owner will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS

MHA or Mixed-Finance Owner has opted not to use permissive deductions.

PART III: CALCULATING RENT

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

TTP Formula

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- A minimum rent of **\$50.00** that is established by MHA or Mixed-Finance Owner
- Flat rent if chosen by the family

MHA or Mixed-Finance Owner will suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Optional Changes to Income-Based Rents

MHA or Mixed-Finance Owner's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to MHA or Mixed-Finance Owner designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

MHA or Mixed-Finance Owner chooses not to adopt optional changes to income-based rents.

Utility Reimbursement

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP.

MHA or Mixed-Finance Owner will pay the reimbursement directly to the utility provider.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

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.

(1) 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.

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

(3) A death has occurred in the family.

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

(4) The family has experienced other circumstances determined by MHA or Mixed-Finance Owner.

MHA or Mixed-Finance Owner has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, MHA or Mixed-Finance Owner will suspend the minimum rent requirement beginning the first of the month following the family’s request.

MHA or Mixed-Finance Owner then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner will not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family’s request for a hardship exemption.

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

Example: Impact of Minimum Rent Exemption			
Assume MHA or Mixed-Finance Owner has established a minimum rent of \$35.			
TTP – No Hardship		TTP – With Hardship	
\$0	30% of monthly adjusted income	\$0	30% of monthly adjusted income
\$15	10% of monthly gross income	\$15	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
\$35	Minimum rent	\$35	Minimum rent
Minimum rent applies. TTP = \$35		Hardship exemption granted. TTP = \$15	

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent.

MHA or Mixed-Finance Owner will make the determination of hardship within 30 calendar days.

No Financial Hardship

When MHA or Mixed-Finance Owner determines there is no financial hardship, MHA or Mixed-Finance Owner will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon MHA or Mixed-Finance Owner’s denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

MHA or Mixed-Finance Owner will require the family to repay the suspended amount within 30 calendar days of MHA or Mixed-Finance Owner’s notice that a hardship exemption has not been granted.

Temporary Hardship

When MHA or Mixed-Finance Owner determines that a qualifying financial hardship is temporary, MHA or Mixed-Finance Owner will 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 MHA or Mixed-Finance Owner the amounts suspended. MHA or Mixed-Finance Owner will offer a reasonable repayment agreement, on terms and conditions established by MHA or Mixed-Finance Owner. MHA or Mixed-Finance Owner also will determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon MHA or Mixed-Finance Owner's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

MHA or Mixed-Finance Owner will enter into a repayment agreement in accordance with MHA or Mixed-Finance Owner's repayment agreement policy.

Long-Term Hardship

When MHA or Mixed-Finance Owner determines that the financial hardship is long-term, MHA or Mixed-Finance Owner will exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

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

1. At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
2. For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if 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

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, MHA or Mixed-Finance Owner will use the utility allowance applicable to the type of dwelling unit leased by the family.

Reasonable Accommodation

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

Utility Allowance Revisions

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

The tenant rent calculations will reflect any changes in MHA or Mixed-Finance Owner's utility allowance schedule.

Resident-Paid Utilities:

The following requirements apply to residents living in developments with resident-paid utilities:

1. Each resident will receive a monthly utility allowance that reflects a reasonable amount of utilities for the specific size and type of unit occupied.
2. When a resident's Total Tenant Payment is less than the utility allowance, MHA or Mixed-Finance Owner will pay a utility reimbursement, equal to the difference between one month's total tenant payment and the utility allowance, to the utility company on the resident's behalf.
3. It may be suggested to the resident to use a "Budget" plan, which protects the resident from seasonal fluctuations in utility bills and ensures adequate heat in the winter.
4. When a resident makes application for utility service in his/her own name, he or she shall sign a third-party notification agreement so that MHA or Mixed-Finance Owner will be notified if the resident fails to pay the utility bill.
5. If an applicant is unable to obtain utilities connected because of a previous balance owed the utility company at a prior address, applicant will not be admitted and will receive a Denial of Assistance.
6. Maintaining utilities is the resident's obligation under MHA or Mixed-Finance Owner's lease. Failure to maintain utilities are grounds for lease termination and eviction.

6-III.D. PRORATED RENT FOR MIXED FAMILIES

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. MHA or Mixed-Finance Owner will prorate the assistance provided to a mixed family. MHA or Mixed-Finance Owner will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible.

To do this MHA or Mixed-Finance Owner will:

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

TTP.

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

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

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS

Flat Rents

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

There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by MHA or Mixed-Finance Owner is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Family Choice in Rents

MHA or Mixed-Finance Owner will annually 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. This will be conducted upon admission and upon each subsequent annual reexamination. MHA or Mixed-Finance Owner will document that flat rents were offered to families under the methods used to determine flat rents for MHA or Mixed-Finance Owner.

MHA or Mixed-Finance Owner will offer the choice of Flat Rent only at the annual re-examination.

MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner will provide sufficient information for families to make an informed choice. This information will include MHA or Mixed-Finance Owner's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year MHA or Mixed-Finance Owner will provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If MHA or Mixed-Finance Owner determines that a financial hardship exists, MHA or Mixed-Finance Owner will immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by MHA or Mixed-Finance Owner that a financial hardship exists, MHA or Mixed-Finance Owner will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- 1.The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- 2.The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- 3.Such other situations determined by MHA or Mixed-Finance Owner to be appropriate.

MHA or Mixed-Finance Owner considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent.

Change in Flat Rents

Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit.

Flat Rents and Earned Income Disallowance

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID.

If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

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

Flat Rents and Mixed Families

Mixed families electing to pay flat rent will first have a flat rent worksheet completed to see if the flat rent will be prorated. The worksheet is located in Appendix III of the *Form HUD-50058 Instruction Booklet*.

If the flat rent is greater than or equal to the public housing maximum rent, there is no proration of flat rent and the family pays the flat rent for the unit.

If the flat rent is less than the maximum rent, the worksheet will calculate a prorated flat rent. The mixed family will pay the prorated flat rent.

24 CFR 5.609 EXHIBIT 6-1: ANNUAL INCOME EXCLUSIONS

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in

determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31¹; and

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

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

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

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

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

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

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

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

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

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

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

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

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

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

(b) [The definition of "assistance"] excludes:

(1) Non-recurrent, short-term benefits that:

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

(c) Annual income does not include the following:

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

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

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

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

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

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

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

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

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

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

(iv) Amounts received under a resident service

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

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

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

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

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

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

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amount.

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;

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

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

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
--

- a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
- b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
- c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C.

1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

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

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

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

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

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

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

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

- n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));
- o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
- r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
- s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS Net Family Assets

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

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

(3) In determining net family assets, MHA or Mixed-Finance Owner will include the value of any business or family assets disposed of

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

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

(5)

EXHIBIT 6-3: EARNED INCOME DISALLOWANCE

24 CFR 960.255 Self-sufficiency incentive–Disallowance of increase in annual income.

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

Disallowance. Exclusion from annual income. *Previously unemployed* includes a person who

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

Qualified family. A family residing in public housing:

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

(b) *Disallowance of increase in annual income.*

(1) *Initial twelve month exclusion.* During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, MHA or Mixed-Finance Owner will exclude from annual income (as defined

in 5.609 of this title) of a qualified family any increase in income of the family member as a result of employment over prior income of that family member.

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

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

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

(d) *Individual Savings Accounts.* MHA or Mixed-Finance Owner has chosen not to provide for individual savings accounts for public housing residents who pay an income-based rent.

EXHIBIT 6-4: THE EFFECT OF WELFARE BENEFIT REDUCTION

**24 CFR 5.615 Public housing program and Section 8 tenant-based assistance program:
How welfare benefit reduction affects family income.**

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

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

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

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

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

Specified welfare benefit reduction.

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

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

- (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) because a family member is not able to obtain employment, even though the family

member has complied with welfare agency economic self-sufficiency or work activities requirements; or

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

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner, the welfare agency will inform MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner of any subsequent changes in the term or amount of such specified welfare benefit reduction. MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to MHA or Mixed-Finance Owner 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) MHA or Mixed-Finance Owner will not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of MHA or Mixed-Finance Owner decision.

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

family written notice of such denial, with a brief explanation of the basis for MHA or Mixed-Finance Owner determination of the amount of imputed welfare income. Such notice will also state that if the family does not agree with MHA or Mixed-Finance Owner determination, the family may request an informal hearing on the determination under MHA or Mixed-Finance Owner hearing procedure.

(e) MHA or Mixed-Finance Owner relation with welfare agency.

(1) MHA or Mixed-Finance Owner will ask welfare agencies to inform MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) MHA or Mixed-Finance Owner will determine 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 MHA or Mixed-Finance Owner. However, MHA or Mixed-Finance Owner will not be 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. MHA or Mixed-Finance Owner will be entitled to rely on the welfare agency notice to MHA or Mixed-Finance Owner of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

PART I: GENERAL VERIFICATION REQUIREMENTS

7-1A. FAMILY CONSENT TO RELEASE OF INFORMATION

The family must supply any information that MHA, Mixed-Finance Owner, or HUD determines is necessary to the administration of the program and must consent to MHA or Mixed-Finance Owner verification of that information.

Consent Forms

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. MHA or Mixed-Finance Owner will collect information from State Wage Information Collection Agencies (SWICAs), Work Force and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent

If any family member who is required to sign a consent form fails to do so, MHA or Mixed-Finance Owner will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with MHA or Mixed-Finance Owner's grievance procedures.

7-1B. OVERVIEW OF VERIFICATION REQUIREMENTS HUD's Verification Hierarchy

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

In order of priority, the forms of verification that MHA or Mixed-Finance Owner will use are:

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

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

Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and generally must be dated within 120 days of the date they are provided to MHA or Mixed-Finance Owner. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

MHA or Mixed-Finance Owner staff member who views the original document will make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications will be made in a format acceptable to MHA or Mixed-Finance Owner and must be signed in the presence of a MHA or Mixed-Finance Owner representative or MHA or Mixed-Finance Owner notary public.

File Documentation

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

MHA or Mixed-Finance Owner will document, in the family file, the following:

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

When MHA or Mixed-Finance Owner is unable to obtain third-party verification, MHA or Mixed-Finance Owner will document in the family file the reason that third-party verification was not available.

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to MHA or Mixed-Finance Owner's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to MHA or Mixed-Finance Owner.

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 MHA or Mixed-Finance Owner has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through MHA or Mixed-Finance Owner's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

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

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

EIV Income Reports

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

MHA or Mixed-Finance Owner will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C.

Income reports may also be used to meet the regulatory requirement for third party verification, as described above.

Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

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

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.

When MHA or Mixed-Finance Owner determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Discrepancy Reports

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

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

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

MHA or Mixed-Finance Owner will generate the Income Discrepancy Report at least once every 6 months.

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

MHA or Mixed-Finance Owner will review the EIV discrepancy tab during processing of annual and interim reexaminations.

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

When MHA or Mixed-Finance Owner determines through file review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification

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

MHA or Mixed-Finance Owner will use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV.

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

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

7-1.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

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

Written Third-Party Verification

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

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

printouts, and unemployment monetary benefit notices.

MHA or Mixed-Finance Owner will obtain, at minimum, four current and consecutive pay stubs for determining annual income from wages.

MHA or Mixed-Finance Owner will 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.

Third-party documents provided by the family must be dated within 120 days of MHA or Mixed-Finance Owner request date.

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

As verification of earned income, MHA or Mixed-Finance Owner will request pay stubs covering the 120-day period prior to MHA or Mixed-Finance Owner's request.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, MHA or Mixed-Finance Owner will request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income (\$2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

MHA or Mixed-Finance Owner may mail, fax, or e-mail third-party written verification form requests to third-party sources.

MHA or Mixed-Finance Owner will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by MHA or Mixed-Finance Owner.

Oral Third-Party Verification

For third-party oral verification, MHA or Mixed-Finance Owner will contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

MHA or Mixed-Finance Owner should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

In collecting third-party oral verification, MHA or Mixed-Finance Owner staff will record in the family's file the name and title of the person contacted, the date and time of the conversation

(or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification MHA or Mixed-Finance Owner will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required

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, MHA or Mixed-Finance Owner will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

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

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

MHA or Mixed-Finance Owner will accept a self-certification from the family as verification of assets disposed of for less than fair market value.

7-I.E. SELF-CERTIFICATION

Self-certification, or "tenant declaration," is used as a last resort when MHA or Mixed-Finance Owner is unable to obtain third-party verification.

When MHA or Mixed-Finance Owner relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to MHA or Mixed-Finance Owner.

MHA or Mixed-Finance Owner will require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to MHA or Mixed-Finance Owner and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a MHA or Mixed-Finance Owner representative or MHA or Mixed-Finance Owner notary public.

PART II: VERIFYING FAMILY INFORMATION 7-II.A.

7-II.A. VERIFICATION OF LEGAL IDENTITY

MHA or Mixed-Finance Owner will require families to furnish verification of legal identity for each household member.

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

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

If none of these documents can be provided and at MHA or Mixed-Finance Owner's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to MHA or Mixed-Finance Owner and be signed in the presence of a MHA representative or MHA notary public.

or Mixed-Finance Owner Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS

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.

MHA or Mixed-Finance Owner 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, along with other identifying information of the individual

MHA or Mixed-Finance Owner will only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

MHA or Mixed-Finance Owner will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to MHA or Mixed-Finance Owner within 90 days.

When the resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. MHA or Mixed-Finance Owner will 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 MHA or Mixed-Finance Owner determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

During the period MHA or Mixed-Finance Owner is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

MHA or Mixed-Finance Owner will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

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

MHA or Mixed-Finance Owner 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.

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, MHA or Mixed-Finance Owner will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

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

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

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

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

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

Separation or Divorce

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

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

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

Absence of Adult Member

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

Foster Children and Foster Adults

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

7-II.E. VERIFICATION OF STUDENT STATUS

MHA or Mixed-Finance Owner requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head, or
- The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

MHA or Mixed-Finance Owner will verify the existence of a disability in order to allow certain income disallowances and deductions from income. MHA or Mixed-Finance Owner will not inquire about the nature or extent of a person's disability [24 CFR 100.202(c)].

MHA or Mixed-Finance Owner will not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If MHA or Mixed-Finance Owner receives a verification document that provides such information, MHA or Mixed-Finance Owner will not place this information in the tenant file. Under no circumstances will MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner will make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities:

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

Family Members Receiving SSA Disability Benefits

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

For family members claiming disability who receive disability payments from the SSA, MHA or Mixed-Finance Owner or Mixed-Finance Owner will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, MHA or Mixed-Finance Owner will request a current (dated within the last 120 days) SSA benefit verification letter from each family member claiming disability status.

If a family member is unable to provide the document, MHA or Mixed-Finance Owner will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, it will be required to provide the letter to MHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

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

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

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.

MHA or Mixed-Finance Owner will request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner Verification

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, MHA or Mixed-Finance Owner will verify immigration status with the U.S. Citizenship and Immigration Services (USCIS). MHA or Mixed-Finance Owner will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

MHA or Mixed-Finance Owner will offer a preference for working families applying for a community with a tax credit/ site base waiting list.

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

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

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides MHA or Mixed-Finance Owner 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, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

MHA or Mixed-Finance Owner will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination MHA or Mixed-Finance Owner will request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, MHA or Mixed-Finance Owner will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months MHA or Mixed-Finance Owner will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, MHA or Mixed-Finance Owner will request a current (dated within the last 120 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, MHA or Mixed-Finance Owner will help the applicant request a benefit verification letter from SSA's Web

site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the original benefit verification letter, it will be required to provide the letter to MHA or Mixed-Finance Owner.

To verify the SS/SSI benefits of residents, MHA or Mixed-Finance Owner will obtain information about social security/SSI benefits through HUD's EIV system, and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, MHA or Mixed-Finance Owner will request a current SSA benefit verification letter from each family member that receives social security benefits.

If a family member is unable to provide the document, MHA or Mixed-Finance Owner will help the resident request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to MHA or Mixed-Finance Owner.

7-III.D. ALIMONY OR CHILD SUPPORT

The way MHA or Mixed-Finance Owner will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

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

Copy of the receipts and/or payment stubs for the 120 days prior to MHA or Mixed-Finance Owner request Third-party verification form from the state or local child support enforcement agency.

Third-party verification form from the person paying the support.

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

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

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts.
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.

Note: Families are not required to undertake independent enforcement action

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. MHA or Mixed-Finance Owner needs to verify only those certifications that warrant documentation.

MHA or Mixed-Finance Owner will verify the value of assets disposed of only if:

MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner verified this amount. Now the person reports that she has given this \$10,000 to her son. MHA or Mixed-Finance Owner has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, MHA or Mixed-Finance Owner will verify the value of this asset.

7-III.F. 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, MHA or Mixed-Finance Owner will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

MHA or Mixed-Finance Owner will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, MHA or Mixed-Finance Owner will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, MHA or Mixed-Finance Owner will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, MHA or Mixed-Finance Owner will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

MHA or Mixed-Finance Owner will obtain verification for income exclusions only if, without verification, MHA or Mixed-Finance Owner will not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, MHA or Mixed-Finance Owner will confirm that MHA records verify the child's age but will not require third-party verification of the amount earned. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

MHA or Mixed-Finance Owner will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). In all other cases, MHA or Mixed-Finance Owner will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

MHA or Mixed-Finance Owner will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by families claiming to have zero annual income.

A zero income form will be used to determine income from other sources that are contributed to the household. This includes non-cash contributions that are not for medical expenses. For example, if someone who is not a household member pays the telephone bill or car payment every month, or buys gas, tires and insurance for the car or purchase household items and supplies for the home, these contributions would be considered income for the purposes of the public housing program.

PART IV: VERIFYING MANDATORY DEDUCTIONS

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

The dependent and elderly/disabled family deductions require only that MHA or Mixed-Finance Owner verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. MHA or Mixed-Finance Owner will verify that:

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

Elderly/Disabled Family Deduction

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

7-IV.B. MEDICAL EXPENSE DEDUCTION

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

Amount of Expense

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

MHA or Mixed-Finance Owner will make a best effort to determine what expenses from the past are likely to continue to occur in the future. MHA or Mixed-Finance Owner will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation. If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, MHA or Mixed-Finance Owner will verify that:

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

Eligible Household

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

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for MHA or Mixed-Finance Owner's policy on what counts as a medical expense.

Unreimbursed Expenses

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

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

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, MHA or Mixed-Finance Owner will verify:

The anticipated repayment schedule the amounts aid in the past, and whether the

amounts to be repaid have been deducted from the family's annual income in past years.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

MHA or Mixed-Finance Owner will accept written third-party documents provided by the family. If family-provided documents are not available, MHA or Mixed-Finance Owner will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.

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

Auxiliary Apparatus

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, MHA or Mixed-Finance Owner 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.
- The expense is not reimbursed from another source.

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. MHA or Mixed-Finance Owner will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

MHA or Mixed-Finance Owner will verify that the expenses claimed actually enable a family

member, or members, (including the person with disabilities) to work.

MHA or Mixed-Finance Owner 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 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, MHA or Mixed-Finance Owner will verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. MHA or Mixed-Finance Owner 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 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

MHA or Mixed-Finance Owner 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

MHA or Mixed-Finance Owner will verify information about how the schedule for the claimed

activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

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

In the event third-party verification is not available, MHA or Mixed-Finance Owner will provide the family with a form on which the family member must record job search efforts. MHA or Mixed-Finance Owner will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

MHA or Mixed-Finance Owner will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

MHA or Mixed-Finance Owner will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

MHA or Mixed-Finance Owner will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

MHA or Mixed-Finance Owner will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

MHA or Mixed-Finance Owner will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with MHA or Mixed-Finance Owner's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, MHA or Mixed-Finance Owner 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

<p>All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to MHA or Mixed-Finance Owner.</p> <ul style="list-style-type: none"> • Except for persons 62 or older, all noncitizens must sign a verification consent form • Additional documents are required based upon the person's status. 	
<p>Elderly Noncitizens</p> <ul style="list-style-type: none"> • 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. 	
<p>All other Noncitizens</p> <ul style="list-style-type: none"> • Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below. 	
<ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> ○ “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” 	<ul style="list-style-type: none"> • Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> ○ 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).
<ul style="list-style-type: none"> • Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. 	<ul style="list-style-type: none"> • Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.
<ul style="list-style-type: none"> • 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 <i>Federal Register</i> 	

Chapter 8

LEASING AND INSPECTIONS

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed for another 12-month term, except that MHA or Mixed-Finance Owner will not renew the lease if the family has violated the community service requirement or received a lease termination notice.

8-I.B. LEASE ORIENTATION

After unit acceptance but prior to occupancy, a MHA or Mixed-Finance Owner representative will provide a lease orientation to 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 MHA or Mixed-Finance Owner's grievance procedure
- A copy of policies
- A copy of MHA or Mixed-Finance Owner's schedule of maintenance charges
- A copy of the pamphlet *Protect Your Family From Lead in Your Home*
- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

Topics to be discussed will include:

- Applicable deposits and other charges
- Review and explanation of lease provisions
- Unit maintenance and work orders
- MHA or Mixed-Finance Owner's reporting requirements
- Explanation of occupancy forms
- Community service requirements
- Family choice of rent

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and MHA or Mixed-Finance Owner.

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one MHA or Mixed-Finance Owner unit to another.

The lease must state the composition of the household as approved by MHA or Mixed-Finance Owner (family members and any MHA or Mixed-Finance Owner approved live-in aide). See Section 8-I.D. for policies regarding changes in family composition during the lease term.

The head of household, spouse or co-head and all other adult members (18 and older) of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and MHA or Mixed-Finance Owner will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to MHA or Mixed-Finance Owner assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and MHA or Mixed-Finance Owner.

Modifications to the Lease Form

MHA or Mixed-Finance Owner will modify its lease from time to time. However, MHA or Mixed-Finance Owner will give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes.

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 120 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy.

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments.

The notice will be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the development office, if any, or if none, a similar central business location within the development. Comments will be taken into consideration before any proposed modifications or revisions become effective.

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request.

When MHA or Mixed-Finance Owner proposes to modify or revise schedules of special charges

or rules and regulations, MHA or Mixed-Finance Owner 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, an interim will be conducted to execute a new lease agreement.

If a new household member is approved by MHA or Mixed-Finance Owner to reside in the unit, an interim will be conducted to execute a new lease agreement.

8-I.E. SECURITY DEPOSITS.

At the option of MHA or Mixed-Finance Owner, the lease may require security deposits. The amount of the security deposit is \$100.00.

Residents must pay a security deposit to MHA or Mixed-Finance Owner at the time of admission.

MHA or Mixed-Finance Owner will hold the security deposit for the period the family occupies the unit. MHA or Mixed-Finance Owner will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner will provide the resident with a written list of any charges against the security deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged, MHA or Mixed-Finance Owner will provide a meeting to discuss the charges.

If the resident transfers to another unit, MHA or Mixed-Finance Owner will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments

Families must pay the amount of the monthly tenant rent determined by MHA or Mixed-Finance Owner in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and MHA or Mixed-Finance Owner will give written notice stating any change in the amount of tenant rent and when the change is effective.

The tenant rent is due and payable at MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment."

Late Fees and Nonpayment

The lease may provide for payment of penalties when the family is late in paying tenant rent.

If the family fails to pay their rent by the fifth day of the month, and MHA or Mixed-Finance Owner 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. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, MHA or Mixed-Finance Owner will not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of \$25.00 will be charged to the family. The fee will be due and payable 14 days after billing.

Maintenance and Damage Charges

MHA or Mixed-Finance Owner will charge the tenant for maintenance and repair beyond normal wear and tear.

Schedules of special charges for services and repairs are posted on the bulletin board of the rental office and a copy will be furnished to the tenant upon request.

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after MHA or Mixed-Finance Owner gives written notice of the charges.

When applicable, families will be charged for maintenance and/or damages according to MHA or Mixed-Finance Owner'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.

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, MHA or Mixed-Finance Owner will not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections

MHA or Mixed-Finance Owner and the family are required to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by MHA or Mixed-Finance Owner and the resident, must be provided to the tenant and be kept in the resident file.

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections

MHA or Mixed-Finance Owner will inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to MHA or Mixed-Finance Owner. MHA or Mixed-Finance Owner will provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

When applicable, MHA or Mixed-Finance Owner will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 10 business days of conducting the move-out inspection.

Annual Inspections

Under the Public Housing Assessment System (PHAS), MHA or Mixed-Finance Owner is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

UPCS and housekeeping inspections will be conducted annually.

Special Inspections

MHA or Mixed-Finance Owner 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

Building exteriors, grounds, common areas and systems will be inspected according to MHA or Mixed-Finance Owner's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries

MHA or Mixed-Finance Owner will enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of MHA or Mixed-Finance Owner entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

MHA or Mixed-Finance Owner 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 1 week 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 MHA or Mixed-Finance Owner to enter the unit.

Emergency Entries

MHA or Mixed-Finance Owner will enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, MHA or Mixed-Finance Owner will leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Housekeeping Inspections

Housekeeping Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify MHA or Mixed-Finance Owner at least 24 hours prior to the scheduled inspection. MHA or Mixed-Finance Owner will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. MHA or Mixed-Finance Owner will request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections. There is no such requirement for other types of inspections.

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection.

8-II.D. INSPECTION RESULTS

MHA or Mixed-Finance Owner is obligated to maintain dwelling units and the development in decent, safe and sanitary condition and to make necessary repairs to dwelling units.

Emergency Repairs

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify MHA or Mixed-Finance Owner of the damage, and MHA or Mixed-Finance Owner will make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, MHA or Mixed-Finance Owner will charge the family for the reasonable cost of repairs. MHA or Mixed-Finance Owner will also take lease enforcement action against the family.

If MHA or Mixed-Finance Owner cannot make repairs quickly, MHA or Mixed-Finance Owner will offer the family standard alternative accommodations.

When conditions in the unit are hazardous to life, health, or safety, MHA or Mixed-Finance Owner will make repairs or otherwise abate the situation within 24 hours.

- Defects hazardous to life, health or safety include, but are not limited to, the following:
Any condition that jeopardizes the security of the unit
- Major plumbing sewer back up, flooding, waterlogged ceiling or floor in imminent danger of falling
- Any electrical problem or condition that could result in shock or fire
- No heat (below 60 degrees)/air conditioning (above 90 degrees)
- Conditions that present the imminent possibility of injury Obstacles that prevent safe entrance or exit from the unit Absence of a functioning toilet in the unit
- Inoperable smoke detectors
- Hot water heater smoking/busted tank

Non-emergency Repairs

MHA or Mixed-Finance Owner will correct non-life threatening health and safety defects within 15 business days of the inspection date. If MHA is unable to make repairs within that period due to circumstances beyond MHA or Mixed-Finance Owner's control (e.g. required parts or services are not available, weather conditions, etc.) MHA or Mixed-Finance Owner will notify the family of an estimated date of completion.

The family must allow MHA or Mixed-Finance Owner access to the unit to make repairs.

Resident-Caused Damages

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, MHA or Mixed-Finance Owner will provide proper notice of a lease violation.

A re-inspection will be conducted within 14 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one fine will be given. A second incidence will result in lease termination.

Chapter 9

REEXAMINATIONS

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, MHA or Mixed-Finance Owner will conduct a reexamination of income and family composition at least annually. For families who choose flat rents, MHA or Mixed-Finance Owner will conduct a reexamination of family composition at least annually, and will conduct a reexamination of family income at least once every 3 years. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, MHA or Mixed-Finance Owner will conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point to determine the need for lease enforcement or eviction.

MHA or Mixed-Finance Owner will obtain information needed to conduct reexaminations. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process.

This part contains MHA or Mixed-Finance Owner's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

MHA or Mixed-Finance Owner will ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period.

MHA or Mixed-Finance Owner will schedule annual reexaminations to coincide with the family's anniversary date.

MHA or Mixed-Finance Owner 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 reexamination date will not change.

or Mixed-Finance Owner may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

MHA or Mixed-Finance Owner is required to obtain information needed to conduct annual reexaminations. MHA or Mixed-Finance Owner will give tenants the opportunity to complete Form HUD-92006 at this time.

Families are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact MHA or Mixed-Finance Owner to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact MHA or Mixed-Finance Owner in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview MHA or Mixed-Finance Owner will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without MHA or Mixed-Finance Owner 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.C. CONDUCTING ANNUAL EXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition.

Families are requested to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a MHA or Mixed-Finance Owner designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has

occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. MHA or Mixed-Finance Owner will use the results of the annual reexamination to require the family to move to an appropriate size unit. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service

For families who include nonexempt individuals, MHA or Mixed-Finance Owner will determine compliance with community service requirements once each 12 months. (See chapter 11)

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, MHA or Mixed-Finance Owner will make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

An *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

A *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by MHA or Mixed-Finance Owner by the date specified, and this delay prevents MHA or Mixed-Finance Owner from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

9-II.A. OVERVIEW

HUD requires that MHA or Mixed-Finance Owner offer all families the choice of paying income-based rent or flat rent at least annually. MHA or Mixed-Finance Owner's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, MHA or Mixed-Finance Owner will conduct a reexamination of family composition at least annually, and will conduct a reexamination of family income at least once every 3 years. MHA or Mixed-Finance Owner is only required to provide the amount of income-based rent the family might pay in those years that MHA or Mixed-Finance Owner conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information.

As it does for families that pay income-based rent, on an annual basis, MHA or Mixed-Finance Owner will also review community service compliance and should have each adult resident consent to a criminal background check.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

For families paying flat rents, MHA or Mixed-Finance Owner will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

In conducting full reexaminations for families paying flat rents, MHA or Mixed-Finance Owner 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 3 years for families paying flat rents. In the years between full reexaminations, regulations require MHA or Mixed-Finance Owner to conduct an annual reexamination of family composition (“annual update”).

The annual update process is similar to the annual reexamination process, except that MHA or Mixed-Finance Owner does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

Scheduling

MHA or Mixed-Finance Owner will ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually.

For families paying flat rents, annual updates will be conducted annually following the full reexamination.

In scheduling the annual update, MHA or Mixed-Finance Owner 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

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition.

The family will be required to attend an interview for an annual update.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to MHA or Mixed-Finance Owner. The family will have 10 business days to submit the required information to MHA or Mixed-Finance Owner. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. MHA or Mixed-Finance Owner will accept required documentation by mail, by fax, or in person.

If the family’s submission is incomplete, or the family does not submit the information in the required time frame, MHA or Mixed-Finance Owner will send a second written notice to the family. The family will have 5 business days from the date of the second notice to provide the missing information or documentation to MHA or Mixed-Finance Owner.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. MHA or Mixed-Finance Owner will use the results of the annual update to require the family to move to an appropriate size unit. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, MHA or Mixed-Finance Owner will determine compliance with community service requirements once each 12 months. See Chapter 11 for MHA or Mixed-Finance Owner's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD regulations also permit MHA or Mixed-Finance Owner to conduct interim reexaminations of income or family composition at any time.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

MHA or Mixed-Finance Owner will adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, MHA or Mixed-Finance Owner has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

MHA or Mixed-Finance Owner will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require MHA or Mixed-Finance Owner approval. However, the family is required to promptly notify MHA or Mixed-Finance Owner of the addition and complete an interim change.

The family must inform MHA or Mixed-Finance Owner of the birth, adoption, or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request MHA or Mixed-Finance Owner approval to add a new family member or other household member (live-in aide or foster child).

MHA or Mixed-Finance Owner will allow residence by a foster child or a live-in aide, and define the circumstances in which MHA or Mixed-Finance Owner consent will be given or denied. Under such policies, the factors considered by MHA or Mixed-Finance Owner will include:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- MHA or Mixed-Finance Owner's obligation to make reasonable accommodation for persons with disabilities.

Families must request MHA or Mixed-Finance Owner approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by MHA or Mixed-Finance Owner prior to the individual moving into the unit.

MHA or Mixed-Finance Owner will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit (under the transfer policy in Chapter 12), unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by MHA or Mixed-Finance Owner. Exceptions will be made on a case-by-case basis.

MHA or Mixed-Finance Owner will not approve the addition of a new family or household member unless the individual meets MHA or Mixed-Finance Owner's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If MHA or Mixed-Finance Owner determines that an individual does not meet MHA or Mixed-Finance Owner's eligibility criteria or documentation requirements, MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

If a family member ceases to reside in the unit, the family must inform MHA or Mixed-Finance Owner within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform MHA or Mixed-Finance Owner within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because MHA or Mixed-Finance Owner has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, MHA or Mixed-Finance Owner will take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

MHA or Mixed-Finance Owner -initiated Interim Reexaminations

MHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by MHA or Mixed-Finance Owner. They are not scheduled because of changes reported by the family.

MHA or Mixed-Finance Owner will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), MHA or Mixed-Finance Owner will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, MHA or Mixed-Finance Owner will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income. The family will be required to complete a zero income contribution form.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), MHA or Mixed-Finance Owner will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, MHA or Mixed-Finance Owner will conduct an interim reexamination.

MHA or Mixed-Finance Owner will conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The family must report changes in family income, composition or expenses within 10 days. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination.

Required Reporting

HUD regulations give MHA or Mixed-Finance Owner the freedom to determine the circumstances under which families will be required to report changes affecting income.

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

MHA or Mixed-Finance Owner will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's rent will change as a result of the increase. In all other cases, MHA or Mixed-Finance Owner will note the information in the tenant file, but will not conduct an interim reexamination.

The HA will process an interim increase for any rent reduction given as a result of fraud or misrepresentation.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. MHA or Mixed-Finance Owner will process the request if the family reports a change that will result in a reduced family income.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced. For more information regarding the requirement to impute welfare income see Chapter 6.

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, MHA or Mixed-Finance Owner will note the information in the tenant file, but will not conduct an interim reexamination. The changes will be made at the next annual reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, MHA or Mixed-Finance Owner will conduct an interim reexamination.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family must notify MHA or Mixed-Finance Owner of changes in writing. If the family provides oral notice, MHA or Mixed-Finance Owner will also require the family to submit the changes in writing.

The family will be required to attend an interview for an interim reexamination in order to execute a new lease agreement.

Based on the type of change reported, MHA or Mixed-Finance Owner will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from MHA or Mixed-Finance Owner. This time frame may be extended for good cause with MHA or Mixed-Finance Owner approval. MHA or Mixed-Finance Owner will accept required documentation by mail, by fax, or in person.

MHA or Mixed-Finance Owner will process an interim increase for any rent reduction given as a result of fraud or misrepresentation.

Effective Dates

MHA or Mixed-Finance Owner will make the interim reexamination within a reasonable time after the family request.

If the family share of the rent is to *increase*:

The increase (except those due to misrepresentation or late reporting) require a 30 days notice and become effective the first of the second month following the increase in income.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

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.

Resident Misrepresentation

MHA or Mixed-Finance Owner will process an interim increase in rent if the resident has misrepresented or failed to report facts upon which rent is based, so the rent the resident is paying is less than it should have been. MHA or Mixed-Finance Owner will apply any increase in rent retroactive to the month following the month in which the misrepresentation occurred.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, MHA or Mixed-Finance Owner will recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES

The tenant rent calculations must reflect any changes in MHA or Mixed-Finance Owner's utility allowance schedule. Chapter 16 discusses how utility allowance schedules are established.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires MHA or Mixed-Finance Owner to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective.

When MHA or Mixed-Finance Owner determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of MHA or Mixed-Finance Owner's schedule of Utility Allowances for families in MHA or Mixed-Finance Owner's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, MHA or Mixed-Finance Owner will notify the tenant that the tenant may ask for an explanation stating the specific grounds of MHA or Mixed-Finance Owner determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under MHA or Mixed-Finance Owner's grievance procedure.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, MHA or Mixed-Finance Owner will discover that information previously reported by the family was in error, or that the family intentionally misrepresented information.

In addition, MHA or Mixed-Finance Owner will discover errors made by MHA or Mixed-Finance Owner. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Chapter 10

PETS

PART I: ASSISTANCE ANIMALS

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that assist, support, or provide service to a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to MHA or Mixed-Finance Owner's pet policies described in Parts II through IV of this chapter.

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal.

MHA or Mixed-Finance Owner will not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability.

A MHA or Mixed-Finance Owner's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation.
- There is reliable objective evidence that the animal would cause substantial physical

damage to the property of others.

MHA or Mixed-Finance Owner has the authority to regulate assistance animals under applicable federal, state, and local law.

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and MHA or Mixed-Finance Owner approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority a MHA or Mixed-Finance Owner may have to regulate assistance animals under federal, state, and local law.

- 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, MHA or Mixed-Finance Owner will consider whether the violation could be reduced or eliminated by a reasonable accommodation.

If MHA or Mixed-Finance Owner determines that no such accommodation can be made, MHA or Mixed-Finance Owner may withdraw the approval of a particular assistance animal.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

10.II.A. OVERVIEW

This part establishes clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

MHA or Mixed-Finance Owner will require registration of the pet with MHA or Mixed-Finance Owner.

Pets must be registered with MHA or Mixed-Finance Owner 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

MHA or Mixed-Finance Owner 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.
- MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of MHA or Mixed-Finance Owner'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 MHA or Mixed-Finance Owner's grievance procedures.

Pet Agreement

Residents who have been approved to have a pet must enter into a pet agreement with MHA or Mixed-Finance Owner, 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 MHA or Mixed-Finance Owner's pet policy and applicable 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 MHA or Mixed-Finance Owner's pet policy and applicable rules may result in the withdrawal of MHA or Mixed-Finance Owner approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS

MHA or Mixed-Finance Owner has established reasonable requirements related to pet ownership including, but not limited to:

- Each Head of Household may own up to two pets. If one of the pets is a dog or cat, (or other four legged animal), the second pet must be contained in a cage or an aquarium for fish. Each bird or other animals, other than fish, shall be counted as one pet.
- Prohibited Animals: Animals or breeds of animals that are considered by the HA to be vicious and /or intimidating will not be allowed. Some examples of animals that have a reputation of a vicious nature are: reptiles, rottweiler, doberman pinscher, pit bulldog, and/or any animal that displays vicious behavior. This determination will be made by a HA representative.

- Tenant must provide waterproof and leak proof litter boxes for cat waste, which must be kept inside the dwelling unit. Cardboard boxes are not acceptable and will not be approved. The tenant shall not permit refuse from litter boxes to accumulate nor to become unsightly or unsanitary.
- The weight of a cat cannot exceed 10 pounds (fully grown) and a dog may not exceed 20 pounds in weight (fully grown). All other four legged animals are limited to 10 pounds (fully grown).
- Dog or cat must be neutered/spayed by the age of six months, and cats must be declawed by the age of three months. Evidence must be provided by a statement/bill from a veterinarian or staff of the humane society.

Definition of “Common Household Pet”

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize MHA or Mixed-Finance Owner to define the term.

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 dogs of the pit bull, rottweiler, chow, or boxer breeds
- Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations
- Any animal not permitted under state or local law or code.

Number of Pets

Residents may own a maximum of 2 pets, only 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 10 gallons. Such a tank or aquarium will be counted as 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 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with MHA or Mixed-Finance Owner policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations.

Pet Area Restrictions

- Pets must be maintained within the resident's unit. When outside of the unit, (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.
- 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 development premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas

With the exception of common areas as described in the previous policy, MHA or Mixed-Finance Owner has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- Litter shall not be disposed of by being flushed through a toilet.
- Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

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 MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner.

Pet Rule Violations

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation.
- That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting.
- That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

Notice for Pet Removal

If the pet owner and MHA or Mixed-Finance Owner is unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by MHA or Mixed-Finance Owner, MHA or Mixed-Finance Owner may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for MHA or Mixed-Finance Owner'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 MHA or Mixed-Finance Owner after reasonable efforts cannot contact the responsible party, MHA or Mixed-Finance Owner may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

MHA or Mixed-Finance Owner 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

MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes MHA or Mixed-Finance Owner's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

MHA or Mixed-Finance Owner requires tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the development.

The maximum amount of pet deposit that may be charged by a MHA or Mixed-Finance Owner on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as MHA or Mixed-Finance Owner may require. MHA or Mixed-Finance Owner may permit gradual accumulation of the pet deposit by the pet owner.

The pet deposit is not part of the rent payable by the resident.

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 must be paid in full before the pet is brought on the premises.

Refund of Deposit

MHA or Mixed-Finance Owner will use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. MHA or Mixed-Finance Owner will refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the development or no longer owns or keeps a pet in the unit.

MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, MHA or Mixed-Finance Owner will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

All reasonable expenses incurred by MHA or Mixed-Finance Owner as a result of damages directly attributable to the presence of the pet in the development will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit Fumigation of the dwelling unit.
- Repairs to common areas of the development.
- The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address MHA or Mixed-Finance Owner's ability to impose charges for house pet rule violations. However, charges for violation of MHA or Mixed-Finance Owner pet rules may be treated like charges for other violations of the lease and MHA or Mixed-Finance Owner tenancy rules.

A separate pet waste removal charge of \$25.00 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 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, MHA or Mixed-Finance Owner will not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes MHA or Mixed-Finance Owner’s policies for pet deposits and fees.

10-IV.B. PET DEPOSITS

MHA or Mixed-Finance Owner requires a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered.

Payment of Deposit

Type of Pet	Fee	Deposit
Dog	\$150.00	\$250.00
Cat	\$100.00	\$150.00
Fish Aquarium	\$50.00	\$100.00
Fish Bowl	\$0	\$25.00
Caged Pets	\$100.00	\$150.00

The deposit must be paid in full before the pet is brought on the premises.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

- MHA or Mixed-Finance Owner 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.
- MHA or Mixed-Finance Owner will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, MHA or Mixed-Finance Owner will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

MHA or Mixed-Finance Owner will require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets.

MHA or Mixed-Finance Owner requires pet owners to pay an annual non-refundable nominal pet fee. This fee is intended to cover the reasonable operating costs to the development relating to the presence of pets. Reasonable operating costs to the development 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 will be billed annually, and payment will be due 14 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 MHA or Mixed-Finance Owner as a result of damages directly attributable to the presence of the pet in the development will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit Fumigation of the dwelling unit.
- Repairs to common areas of the development.
- The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. 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

Charges for violation of MHA or Mixed-Finance Owner pet rules may be treated like charges for other violations of the lease and MHA or Mixed-Finance Owner tenancy rules.

A separate pet waste removal charge of \$25.00 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 14 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

Chapter 11

COMMUNITY SERVICE

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

11-I.B. REQUIREMENTS

Each adult resident of MHA or Mixed-Finance Owner, who is not exempt, must:

Contribute 8 hours per month of community service; or

Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or

Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

An individual may not skip a month and then double up the following month, unless special circumstances warrant it. MHA or Mixed-Finance Owner will make the determination of whether to permit a deviation from the schedule.

Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must notify MHA or Mixed-Finance Owner in writing within 5 business days of the circumstances becoming known. MHA or Mixed-Finance Owner will review the request and notify the individual, in writing, of its determination within 10 business days. MHA or Mixed-Finance Owner will require those individuals to provide documentation to support their claim.

Definitions

Exempt Individual

An *exempt individual* is an adult who:

Is age 62 years or older;

Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions;

Is a primary caretaker of such individual;

Is engaged in work activities (MHA or Mixed-Finance Owner will consider 20 hours per week as the minimum number of hours needed to qualify for a work activity exemption.).

Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which MHA or Mixed-Finance Owner is located, including a state-administered welfare-to-work program; or

Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which MHA or Mixed-Finance Owner is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

Community Service

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving MHA or Mixed-Finance Owner residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children’s recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- MHA housing to improve grounds or provide gardens (so long as such work does not alter MHA or Mixed-Finance Owner’s insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

MHA or Mixed-Finance Owner will accept community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work as eligible community service activities.

Economic Self-Sufficiency Program

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any activity required by the Department of Public Assistance under Temporary Assistance for Needy Families (TANF)
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Work Activities

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

Notification Requirements

MHA or Mixed-Finance Owner will give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for MHA or Mixed-Finance Owner verification of exempt status. MHA or Mixed-Finance Owner will also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, Attachment A of Notice PIH 2009-48, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease.

MHA will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, MHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE

MHA will review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

Where the lease term does not coincide with the effective date of the annual reexamination, MHA or Mixed-Finance Owner will change the effective date of the annual reexamination to coincide with the lease term. In making this change, MHA or Mixed-Finance Owner will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement

At least 120 days prior to lease renewal, MHA or Mixed-Finance Owner will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or MHA or Mixed-Finance Owner has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, MHA or Mixed-Finance Owner will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

MHA or Mixed-Finance Owner will review resident family compliance with service requirements annually at least 30 days before the end of the twelve month lease term. As part of this review, MHA or Mixed-Finance Owner will verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

Approximately 120 days prior to the end of the lease term, MHA or Mixed-Finance Owner will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit MHA or Mixed-Finance Owner required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or MHA or Mixed-Finance Owner 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 (12) month lease term, it is the family's responsibility to report this change to MHA or Mixed-Finance Owner within ten (10) business days.

Within (10) business days of a family reporting such a change, or MHA or Mixed-Finance Owner determining such a change is necessary, MHA or Mixed-Finance Owner will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30 day notice.

Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to MHA or Mixed-Finance Owner within 10 business days. Any claim of exemption will be verified by MHA or Mixed-Finance Owner in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or MHA or Mixed-Finance Owner determining such a change is necessary, MHA or Mixed-Finance Owner will provide the family written notice that the family member is no longer subject to the community service requirement, if MHA or Mixed-Finance Owner is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION

Documentation and Verification of Exemption Status

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. MHA

or Mixed-Finance Owner will provide a completed copy to the family and will keep a copy in the tenant file.

MHA or Mixed-Finance Owner will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

MHA or Mixed-Finance Owner makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with MHA or Mixed-Finance Owner's determination, s/he can dispute the decision through MHA or Mixed-Finance Owner's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by MHA or Mixed-Finance Owner of community service and self-sufficiency activities performed over the last 12 months.

If qualifying community service activities are administered by an organization other than MHA or Mixed-Finance Owner, a family member who is required to fulfill a service requirement must provide certification to MHA or Mixed-Finance Owner, signed by the organization, that the family member has performed the qualifying activities.

If anyone in the family is subject to the community service requirement, MHA or Mixed-Finance Owner will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form.

The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to MHA or Mixed-Finance Owner, upon request by MHA or Mixed-Finance Owner.

If MHA or Mixed-Finance Owner has reasonable cause to believe that the certification provided by the family is false or fraudulent, MHA or Mixed-Finance Owner has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Initial Noncompliance

If the tenant fails to comply with the community service requirement, their lease will not be renewed. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term.

If the tenant or another family member has violated the community service requirement, MHA or Mixed-Finance Owner will not renew the lease upon expiration of the twelve-month term of the lease, unless the tenant and any other noncompliant family member enter into a written agreement

with MHA or Mixed-Finance Owner. Under this agreement the tenant or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service requirement must be currently complying with the service requirement or must no longer be residing in the unit.

Notice of Initial Noncompliance

If MHA or Mixed-Finance Owner determines that there is a family member who is required to fulfill a service requirement, but who has failed to comply with this obligation (noncompliant resident), MHA or Mixed-Finance Owner will notify the tenant of this determination.

The notice to the tenant must briefly describe the noncompliance. The notice will state that MHA or Mixed-Finance Owner will not renew the lease at the end of the twelve-month lease term unless the tenant, and any other noncompliant resident, enter into a written agreement with MHA or Mixed-Finance Owner to cure the noncompliance, or the family provides written assurance satisfactory to MHA or Mixed-Finance Owner that the tenant or other noncompliant resident no longer resides in the unit.

The notice will also state that the tenant may request a grievance hearing on MHA or Mixed-Finance Owner's determination, in accordance with MHA or Mixed-Finance Owner's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for MHA or Mixed-Finance Owner's nonrenewal of the lease because of MHA or Mixed-Finance Owner's determination.

The notice of initial noncompliance will be sent at least 30 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before MHA or Mixed-Finance Owner will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, MHA or Mixed-Finance Owner will terminate tenancy in accordance with the policies in Section 13- IV.D.

Continued Noncompliance

If, after the 12 month cure period, the family member is still not compliant, MHA or Mixed-Finance Owner will terminate tenancy of the entire family, according to MHA or Mixed-Finance Owner's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term

and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before MHA or Mixed-Finance Owner will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

Enforcement Documentation

MHA or Mixed-Finance Owner will initiate due process against households failing to comply with lease requirements including the community service and self-sufficiency requirement. CFR 966.53(c)

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

MHA or Mixed-Finance Owner Implementation of Community Service

MHA will not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by MHA or Mixed-Finance Owner employees, or replace a job at any location where residents perform activities to satisfy the service requirement.

MHA or Mixed-Finance Owner will notify its insurance company if residents will be performing community service at MHA or Mixed-Finance Owner. In addition, MHA or Mixed-Finance Owner will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, MHA or Mixed-Finance Owner will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

MHA or Mixed-Finance Owner Program Design

MHA or Mixed-Finance Owner will administer qualifying community service or economic self-sufficiency activities directly, by utilizing community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions.

MHA or Mixed-Finance Owner will attempt to provide the broadest choice possible to residents as they choose community service activities.

MHA or Mixed-Finance Owner will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner Plan.

MHA or Mixed-Finance Owner will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

If MHA or Mixed-Finance Owner has a ROSS program, a ROSS Service Coordinator, or an FSS program, MHA or Mixed-Finance Owner will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with MHA or Mixed-Finance Owner coordinators will satisfy community service activities and MHA or Mixed-Finance Owner coordinators will verify community service hours within individual monthly logs.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions Community Service – community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving MHA or Mixed-Finance Owner residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children’s recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- MHA or Mixed-Finance Owner housing to improve grounds or provide gardens (so long as such work does not alter MHA or Mixed-Finance Owner’s insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

Note: Political activity is excluded.

Self-Sufficiency Activities – self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any activity required by the Department of Public Assistance under Temporary Assistance for Needy Families (TANF)
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individual
- Is engaged in *work activities*
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which MHA or Mixed-Finance Owner is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which MHA or Mixed-Finance Owner is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

Work Activities – as it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs

- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

A. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month. An individual may not skip a month and then double up the following month, unless special circumstances warrant special consideration. The housing authority will make the determination of whether to allow or disallow a deviation from the schedule based on a family's written request.

3. Family obligation:

At lease execution, all adult members (18 or older) of a public housing resident family must:

- Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
- Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.

Upon written notice from MHA or Mixed-Finance Owner, nonexempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.

If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.

4. Change in exempt status:

If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is his or her responsibility to report this to MHA or Mixed-Finance Owner and provide documentation of exempt status.

If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is his or her responsibility to report this to MHA or Mixed-Finance Owner. Upon receipt of this information MHA or Mixed-Finance Owner will

provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, MHA or Mixed-Finance Owner will:

Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.

Provide in-house opportunities for volunteer work or self-sufficiency activities.

2. MHA or Mixed-Finance Owner will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.

3. Although exempt family members will be required to submit documentation to support their exemption, MHA or Mixed-Finance Owner will verify the exemption status in accordance with its verification policies. MHA or Mixed-Finance Owner will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use MHA or Mixed-Finance Owner's grievance procedure if they disagree with MHA or Mixed-Finance Owner's determination.

4. Noncompliance of family member:

At least thirty (30) days prior to the end of the 12-month lease term, MHA or Mixed-Finance Owner will begin reviewing the exempt or nonexempt status and compliance of family members;

MHA or Mixed-Finance Owner will secure a certification of compliance from nonexempt family members (Attachment B).

If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, MHA or Mixed-Finance Owner finds the family member to be noncompliant, MHA or Mixed-Finance Owner will not renew the lease unless:

The head of household and any other noncompliant resident enter into a written agreement with MHA or Mixed-Finance Owner, to make up the deficient hours over the next twelve (12) month period; or

The family provides written documentation satisfactory to MHA or Mixed-Finance Owner that the noncompliant family member no longer resides in the unit.

If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to MHA or Mixed-Finance Owner that the noncompliant family member no longer resides in the unit;

The family may use MHA or Mixed-Finance Owner's grievance procedure to dispute the lease termination.

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(1) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term “disability” means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term “aged, blind, or disabled individual” means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

EXHIBIT 11-3: MHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from MHA or Mixed-Finance Owner's community service requirement for the following reason:

62 years of age or older (*Documentation of age in file*)

Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement (*Documentation of HUD definition of disability in file*)

Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

Signature of Family Member

Date

Is the primary caretaker of such an individual in the above category. (*Documentation in file*)

Is engaged in work activities (*Verification in file*)

Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which MHA or Mixed-Finance Owner is located, including a state-administered welfare-to-work program (*Documentation in file*)

Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which MHA or Mixed-Finance Owner is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program (*Documentation in file*)

Signature of Family Member

Date

Signature of MHA Official

Date

Chapter 12

TRANSFER POLICY

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers. The emergency transfer differs from a typical transfer in that it requires immediate action by MHA or Mixed-Finance Owner.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, MHA or Mixed-Finance Owner will offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time.

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

12-I.C. EMERGENCY TRANSFER PROCEDURES

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, MHA or Mixed-Finance Owner will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, MHA or Mixed-Finance Owner will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant.

12-I.D. COSTS OF TRANSFER

MHA or Mixed-Finance Owner 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.

PART II: ADMINISTRATIVE TRANSFERS

12-II.A. OVERVIEW

Administrative Transfers

Administrative Transfers are non-emergency in nature. Which are broken down into three priorities. Priorities 1 and 2 shall take precedence of new admissions in the following order of priority. Priority 3 will be addressed through a ratio which may change from time to time. For instance, the ratio may be 25:1 which means, for every 25 families moved-in from the public housing waiting list, one family from the Priority 3 waiting list will be transferred.

Priority 1: Mandatory administrative transfers to permit MHA or Mixed-Finance Owner to renovate, modernize, revitalize, demolish or dispose of public housing property. The cost of the transfer will be covered by MHA or Mixed-Finance Owner.

Priority 2: Voluntary administrative transfers to move residents with disabilities to an accessible dwelling unit. This also includes families who are occupying an accessible unit who do not need the features of the unit so that a family who needs the unit can occupy the accessible unit. The cost of the transfer will be covered by MHA or Mixed-Finance Owner.

Priority 3: Occupancy standards transfers to correct occupancy standards. The cost of this transfer will be paid by the resident.

12-II.B. TYPES OF MHA REQUIRED TRANSFERS

The type of transfers that may be required by MHA or Mixed-Finance Owner, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by MHA or Mixed-Finance Owner are mandatory for the tenant.

Priority 1: Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit MHA or Mixed-Finance Owner to demolish, sell or do major capital or rehabilitation work at a building site.

MHA or Mixed-Finance Owner will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. MHA or Mixed-Finance Owner's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

Priority 2: Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, MHA or Mixed-Finance Owner may require the family to agree to move to a non-accessible unit when it becomes available.

When a non-accessible unit becomes available, MHA or Mixed-Finance Owner will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. MHA or Mixed-Finance Owner 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.

Priority 3: Occupancy Standards Transfers

MHA or Mixed-Finance Owner may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to MHA or Mixed-Finance Owner policy [24 CFR 960.257(a)(4)]. On some occasions, MHA or Mixed-Finance Owner may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

MHA or Mixed-Finance Owner 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. The family will be placed on a transfer waiting list and processed at a 25:1 ratio.
- *Over-housed*: the family no longer qualifies for the bedroom size in which they are living based on MHA or Mixed-Finance Owner's occupancy standards as described in Section 5-I.B. The family will be placed on a transfer waiting list and processed at a 25:1 ratio.

Over-housed and Over-crowded transfers will be addressed through a ratio of 25:1, which means, for every 25 families moved-in from the public housing waiting list, one family from the over-housed and over-crowded waiting list will be transferred.

MHA or Mixed-Finance Owner may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on MHA or Mixed-Finance Owner's occupancy standards, when MHA or Mixed-Finance Owner determines there is a need for the transfer.

MHA or Mixed-Finance Owner may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by MHA or Mixed-Finance Owner 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.

12-II.C. ADVERSE ACTION

MHA or Mixed-Finance Owner required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, MHA or Mixed-Finance Owner may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

MHA or Mixed-Finance Owner will bear the reasonable costs of transfers that MHA or Mixed-Finance Owner requires, except that residents will be required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

MHA or Mixed-Finance Owner will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, MHA or Mixed-Finance Owner will collect information from companies in the community that provide these services.

MHA or Mixed-Finance Owner will reimburse the family for eligible out-of-pocket moving expenses up to MHA or Mixed-Finance Owner's established moving allowance.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides MHA or Mixed-Finance Owner with discretion to consider transfer requests from tenants. The only requests that MHA or Mixed-Finance Owner is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of MHA or Mixed-Finance Owner. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by MHA or Mixed-Finance Owner.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

The types of requests for transfers that MHA or Mixed-Finance Owner will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to MHA or Mixed-Finance Owner's occupancy standards. No other transfer requests will be considered by MHA or Mixed-Finance Owner.

MHA or Mixed-Finance Owner 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 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.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference.

Except where reasonable accommodation is being requested, MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner's advantage to make the transfer.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

When a family transfers from one unit to another, MHA or Mixed-Finance Owner will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the "old" unit.

12-III.E. COST OF TRANSFER

MHA or Mixed-Finance Owner will pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability.

The resident will bear all of the costs of transfer s/he requests. However, MHA or Mixed-Finance Owner will bear the transfer costs when the transfer is done as a reasonable accommodation.

12-III.F. HANDLING OF REQUESTS

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, MHA or Mixed-Finance Owner will encourage the resident to make the request in writing using a reasonable accommodation request form. However, MHA or Mixed-Finance Owner will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

MHA or Mixed-Finance Owner 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.

Once a unit is offered, the family will have two business days to accept the unit.

If the family refuses the unit and does not meet the “good record” requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

MHA or Mixed-Finance Owner will respond within ten (10) business days of the submission of the family’s request. If MHA or Mixed-Finance Owner denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Transfers will be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

MHA or Mixed-Finance Owner will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers may not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

- Emergency transfers (hazardous maintenance conditions)
- High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
- Transfers to make accessible units available
- Demolition, renovation, etc.
- Occupancy standards
- Other MHA or Mixed-Finance Owner required transfers
- Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, MHA or Mixed-Finance Owner may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow MHA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

Residents will receive one offer of a transfer.

When the transfer is required by MHA or Mixed-Finance Owner, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait 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:

- Inaccessibility to source of employment, education, or job training, children’s day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to MHA or Mixed-Finance Owner’s satisfaction that accepting the offer will place a family member’s life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant’s disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

MHA or Mixed-Finance Owner will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

If subject to deconcentration requirements, MHA or Mixed-Finance Owner will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve MHA or Mixed-Finance Owner’s deconcentration goals. A deconcentration offer will be considered a “bonus” offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will be changed to the first of the month in which the transfer took place.

Chapter 13

LEASE TERMINATIONS

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the development office or MHA or Mixed-Finance Owner central office or sent by pre-paid first-class mail, properly addressed.

If a family desires to move and terminate their tenancy with MHA or Mixed-Finance Owner, they must give at least 14 calendar days advance written notice to MHA or Mixed-Finance Owner of their intent to vacate. When a family must give less than 14 days' notice due to circumstances beyond their control MHA or Mixed-Finance Owner, at its discretion, may waive the 14 day requirement.

The intent to vacate notice must be signed by the head of household or spouse.

PART II: TERMINATION BY MHA – MANDATORY

13-II.A. OVERVIEW

No resident's lease shall be terminated except in compliance with HUD regulations, the lease terms, and state law.

13-II.B. FAILURE TO PROVIDE CONSENT

MHA or Mixed-Finance Owner will terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP

MHA or Mixed-Finance Owner will terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by MHA or Mixed-Finance Owner, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS

MHA or Mixed-Finance Owner will terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number. However, if the family is otherwise eligible for continued program assistance, and MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner determined the family to be noncompliant.

MHA or Mixed-Finance Owner will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline

13-II.E. FAILURE TO ACCEPT MHA'S OFFER OF A LEASE REVISION

MHA or Mixed-Finance Owner will terminate the lease if the family fails to accept MHA or Mixed-Finance Owner's offer of a lease revision to an existing lease, provided MHA or Mixed-Finance Owner has done the following:

- The revision is on a form adopted by MHA or Mixed-Finance Owner in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- MHA or Mixed-Finance Owner has made written notice of the offer of the revision at least 120 calendar days before the lease revision is scheduled to take effect.
- MHA or Mixed-Finance Owner has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to MHA or Mixed-Finance Owner policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION

MHA or Mixed-Finance Owner will immediately terminate the lease if MHA or Mixed-Finance Owner determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing. See Part 13-III.B. below for the HUD definition of *premises*.

13-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS

MHA or Mixed-Finance Owner 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.H. DEATH OF A SOLE FAMILY MEMBER

MHA or Mixed-Finance Owner will immediately terminate program assistance for deceased single member households.

PART III: TERMINATION BY MHA OR MANAGING AGENT – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

MHA or Mixed-Finance Owner will exercise the discretion to consider circumstances surrounding the lease violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation. MHA or Mixed-Finance Owner may, as an alternative to termination, require the exclusion of the culpable household member.

13-III.B. MANDATORY LEASE PROVISIONS

This section addresses provisions for lease termination that are included in the lease agreement according to HUD regulations.

Definitions

The following definitions will be used for this and other parts of this chapter:

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 3 III.F.

Domestic violence is defined in section 3-III.F.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and MHA or Mixed-Finance Owner approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit.

Immediate family member is defined in section 3-III.F.

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises mean the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Stalking is defined in section 3-III.F.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises

The lease provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

Illegal Use of a Drug

MHA or Mixed-Finance Owner may evict a family when MHA or Mixed-Finance Owner determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

MHA or Mixed-Finance Owner will terminate the lease when MHA or Mixed-Finance Owner determines that a household member is:

- Illegally using a drug or MHA or Mixed-Finance Owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

MHA or Mixed-Finance Owner will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

Threat to Other Residents

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including MHA or Mixed-Finance Owner management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

MHA or Mixed-Finance Owner will terminate the lease when:

- a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including MHA or Mixed-Finance Owner management staff residing on the premises), or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

MHA or Mixed-Finance Owner will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

Alcohol Abuse

MHA or Mixed-Finance Owner has established standards that allow termination of tenancy if MHA or Mixed-Finance Owner determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

MHA or Mixed-Finance Owner will terminate the lease if MHA or Mixed-Finance Owner determines that:

- a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months. MHA or Mixed-Finance Owner will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation

MHA or Mixed-Finance Owner has established standards that allow termination of tenancy if MHA or Mixed-Finance Owner determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

MHA or Mixed-Finance Owner will terminate the lease if MHA or Mixed-Finance Owner determines that:

- a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

MHA or Mixed-Finance Owner will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions

Violations of regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

MHA or Mixed-Finance Owner will terminate the lease for the following violations of tenant

obligations under the lease:

- Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);
- Repeated late payment of rent or other charges. Four late payments within a 12 month period shall constitute a repeated late payment.
- Failure to fulfill the following household obligations:
 - Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
 - Not to provide accommodations for boarders or lodgers
 - To use the dwelling unit solely as a private dwelling for the tenant and the tenant’s household as identified in the lease, and not to use or permit its use for any other purpose
 - To abide by necessary and reasonable regulations promulgated by MHA or Mixed-Finance Owner for the benefit and well-being of the housing development and the tenants which shall be posted in the development office and incorporated by reference in the lease
 - To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety
 - To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant’s exclusive use in a clean and safe condition
 - To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner
 - To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators
 - To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or development
 - To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the development (including damages to development buildings, facilities or common areas) caused by the tenant, a member of the household or a guest
 - To act, and cause household members or guests to act, in a manner which will not disturb other residents’ peaceful enjoyment of their accommodations and will be conducive to maintaining the development in a decent, safe and sanitary condition

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION

MHA or Mixed-Finance Owner has the authority to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as “other good cause.”

Other Good Cause

MHA or Mixed-Finance Owner will terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit MHA or Mixed-Finance Owner to only those examples.

MHA or Mixed-Finance Owner will terminate the lease for the following reasons:

- *Fugitive Felon or Parole Violator.* If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.
- *Persons subject to sex offender registration requirement.* If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.
- Discovery after admission of facts that made the tenant ineligible
- Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for MHA or Mixed-Finance Owner to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by MHA or Mixed-Finance Owner that such a dwelling unit is available
- Failure to permit access to the unit by MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.
- Failure to abide by the provisions of MHA or Mixed-Finance Owner pet policy
- If the family has breached the terms of a repayment agreement entered into with MHA or Mixed-Finance Owner
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.
- If a household member has engaged in or threatened violent or abusive behavior toward MHA or Mixed-Finance Owner personnel.

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

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

In making its decision to terminate the lease, MHA or Mixed-Finance Owner will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, MHA or Mixed-Finance Owner may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit

It is reasonable that the family may be absent from the public housing unit for brief periods. However, MHA or Mixed-Finance Owner needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

The family must supply any information or certification requested by MHA or Mixed-Finance Owner to verify that the family is living in the unit, or relating to family absence from the unit, including any MHA or Mixed-Finance Owner requested information or certification on the purposes of family absences. The family must cooperate with MHA or Mixed-Finance Owner for this purpose.

The family must promptly notify MHA or Mixed-Finance Owner when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, MHA or Mixed-Finance Owner will terminate the lease for other good cause.

Abandonment. If the family appears to have vacated the unit without giving proper notice, MHA or Mixed-Finance Owner will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, MHA or Mixed-Finance Owner will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families

MHA or Mixed-Finance Owner will not evict or terminate the tenancies of families solely because they are over income.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member

MHA or Mixed-Finance Owner will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address and proof of guardianship/custody of minor children upon MHA or Mixed-Finance Owner request.

Repayment of Family Debts

If a family owes amounts to MHA or Mixed-Finance Owner, as a condition of continued occupancy, MHA or Mixed-Finance Owner will require the family to repay the full amount or to enter into a repayment agreement, within 14 days of receiving notice from MHA or Mixed-Finance Owner of the amount owed. See Chapter 16 for policies on

repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

Evidence

For criminal activity, HUD permits MHA or Mixed-Finance Owner to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

MHA or Mixed-Finance Owner will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Consideration of Circumstances

MHA or Mixed-Finance Owner will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, or stalking
- The effects that the eviction will have on other family members who were not involved in the action or failure to act
- The effect on the community of the termination, or of MHA or Mixed-Finance Owner's failure to terminate the tenancy
- The effect of MHA or Mixed-Finance Owner's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities
- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

Consideration of Rehabilitation

MHA or Mixed-Finance Owner will 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, MHA or Mixed-Finance Owner will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

For this purpose MHA or Mixed-Finance Owner 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

If the family includes a person with disabilities, MHA or Mixed-Finance Owner'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, MHA or Mixed-Finance Owner will determine whether the behavior is related to the disability. If so, upon the family's request, MHA or Mixed-Finance Owner will determine whether alternative measures are appropriate as a reasonable accommodation.

MHA or Mixed-Finance Owner 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.

13-III.F. PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

The Violence against Women Reauthorization Act of 2005 (VAWA), provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate family member of the tenant's family is the victim or threatened victim of that abuse."

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

Definitions

For the definitions of *domestic violence*, *dating violence*, *stalking*, and *immediate family member*, see section 3-III.F.

VAWA and Other Laws

VAWA does not supersede any other federal, state, or local law that provides greater protection to victims of domestic violence, dating violence, or stalking.

Moreover, VAWA does not limit MHA or Mixed-Finance Owner's duty to honor court orders issued to protect a victim or to address the distribution of property when a family breaks up.

Limits on VAWA Protections

While VAWA prohibits a MHA or Mixed-Finance Owner from using domestic violence, dating violence, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a MHA or Mixed-Finance Owner's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, or stalking providing that MHA or Mixed-Finance Owner does not subject the victim to a more demanding standard than other tenants.
- VAWA does not limit a MHA or Mixed-Finance Owner's authority to terminate the tenancy of any public housing tenant if MHA or Mixed-Finance Owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, MHA or Mixed-Finance Owner will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within a short period of time

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

If the tenant wishes to contest MHA or Mixed-Finance Owner'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.

Victim Notification

VAWA requires MHA or Mixed-Finance Owner to notify tenants of their rights under VAWA and to inform them about the existence of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. (For general VAWA notification policies, see section 16-VII.) Notice PIH 2006-42 identifies two ways that a MHA or Mixed-Finance Owner may fulfill this requirement in the event of a termination or start of an eviction proceeding:

It may enclose the form with the termination or eviction notice and direct the family to complete, sign, and return the form, if applicable, by a specified date.

It may include language discussing the protections provided by VAWA in the termination or eviction notice and request that a tenant come to MHA or Mixed-Finance Owner office and pick up the form if the tenant believes the VAWA protections apply.

Notice PIH 2006-42 points out that mailing the certification form in response to an incident could place the victim at risk, since the abuser may be monitoring the mail. In such cases, the notice recommends that MHA or Mixed-Finance Owner work with tenants to make other delivery arrangements.

MHA or Mixed-Finance Owner will follow the lease termination notice policy in section 13-IV.D. If MHA or Mixed-Finance Owner has reason to suspect that the notice might place a victim of domestic violence at risk, it will attempt to deliver the notice by hand directly to the victim. MHA or Mixed-Finance Owner will use the same caution if it decides to deliver VAWA information to a victim at any other time following an incident of domestic violence.

Victim Documentation

VAWA authorizes MHA or Mixed-Finance Owner responding to incidents of actual or threatened domestic violence, dating violence, or stalking to request in writing that a tenant complete, sign, and submit a HUD-approved certification form (form HUD-50066).

In lieu of a certification form, or in addition to the certification form, a tenant may provide one of the following:

- A federal, state, tribal, territorial, or local police or court record documenting the domestic violence, dating violence, or stalking.
- Documentation signed by an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of such abuse, in which the professional attests under penalty of perjury to the professional's belief that the incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation.

MHA or Mixed-Finance Owner is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, or stalking in order to receive the protections of VAWA. MHA or Mixed-Finance Owner may, at its discretion, provide assistance to an individual based solely upon the individual's statement or other corroborating evidence.

VAWA specifies that a victim of domestic violence, dating violence, or stalking must provide documentation of abuse within 14 business days after receipt of a written request for such documentation by a MHA or Mixed-Finance Owner. If the victim does not provide the documentation within that time frame, or any extension approved by MHA or Mixed-Finance Owner, the victim forfeits the protections against termination afforded by VAWA, and MHA or Mixed-Finance Owner is free to evict or terminate the assistance of the victim in accordance with otherwise applicable law and lease provisions.

When a tenant family is facing lease termination because of the actions of a tenant, household member, guest, or other person under the tenant's control and a tenant or immediate family member of the tenant's family claims that she or he is the victim of such actions and that the

actions are related to domestic violence, dating violence, or stalking, MHA or Mixed-Finance Owner will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, MHA or Mixed-Finance Owner will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

MHA or Mixed-Finance Owner reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the MHA or Mixed-Finance Owner's written request or must request an extension within that time frame. MHA or Mixed-Finance Owner may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any MHA or Mixed-Finance Owner approved extension, MHA or Mixed-Finance Owner will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any MHA or Mixed-Finance Owner approved extension, MHA or Mixed-Finance Owner will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA gives MHA or Mixed-Finance Owner the explicit authority to bifurcate a lease, or to remove a household member from a lease, "in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." Specific lease language affirming this authority is not necessary. Further, the authority supersedes any local, state, or other federal law to the contrary. However, if MHA or Mixed-Finance Owner chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance [Pub.L. 109-271]. This means that MHA or Mixed-Finance Owner will follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 *Federal*

Register notice on the applicability of VAWA to HUD programs].

MHA or Mixed-Finance Owner will bifurcate a family's lease and terminate the tenancy of a family member if MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to MHA or Mixed-Finance Owner by the victim in accordance with this section.

MHA or Mixed-Finance Owner will also consider the factors in section 13.III.E. Upon such consideration, MHA or Mixed-Finance Owner may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If MHA or Mixed-Finance Owner does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, MHA or Mixed-Finance Owner will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, MHA or Mixed-Finance Owner may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

MHA or Mixed-Finance Owner Confidentiality Requirements

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

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, MHA or Mixed-Finance Owner will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

This part discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS

MHA or Mixed-Finance Owner is authorized to conduct criminal records checks on public housing residents for lease enforcement and eviction.

MHA or Mixed-Finance Owner will conduct criminal records checks when it has come to the attention of MHA or Mixed-Finance Owner, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information.

In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

A criminal background check will be conducted annually on all household members 18 years old or older.

MHA or Mixed-Finance Owner will not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY

In conducting criminal records checks, if MHA or Mixed-Finance Owner uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections will be afforded the tenant before any adverse action is taken. In such cases if MHA or Mixed-Finance Owner obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, MHA or Mixed-Finance Owner will notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, MHA or Mixed-Finance Owner 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 5 business days from the date of MHA or Mixed-Finance Owner notice, to dispute the accuracy and relevance of the information. If the family does not contact MHA or Mixed-Finance Owner to dispute the information within that 5 business day period, MHA or Mixed-Finance Owner 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

Form, Delivery, and Content of the Notice

Notices of lease termination will be in writing. The notice will state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine MHA or Mixed-Finance Owner documents directly relevant to the termination or eviction. If MHA or Mixed-Finance Owner does not make the documents available for examination upon request by the tenant, MHA or Mixed-Finance Owner

may not proceed with the eviction.

MHA or Mixed-Finance Owner may offer the resident an opportunity for a grievance hearing, the notice will also inform the resident of their right to request a hearing in accordance with MHA or Mixed-Finance Owner's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

MHA or Mixed-Finance Owner is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by MHA or Mixed-Finance Owner for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of MHA or Mixed-Finance Owner, or for a drug-related criminal activity on or off the premises.

Timing of the Notice

MHA or Mixed-Finance Owner will give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation. If the health or safety of other residents, MHA or Mixed-Finance Owner employees, or persons residing in the immediate vicinity of the premises is threatened
- If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
- If any member of the household has been convicted of a felony
- 14 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

MHA or Mixed-Finance Owner will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations MHA or Mixed-Finance Owner will give 14 days written notice or, if state or local law allows less than 14 days, such shorter notice will be given.

Notice of Nonrenewal Due to Community Service Noncompliance

When MHA or Mixed-Finance Owner finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident will be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in

noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with MHA or Mixed-Finance Owner either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for MHA or Mixed-Finance Owner's informal hearing procedures.

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. MHA or Mixed-Finance Owner will 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.

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, MHA or Mixed-Finance Owner will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, MHA or Mixed-Finance Owner will seek the assistance of the court to remove the family from the premises as per state and local law.

13-IV.F. NOTIFICATION TO POST OFFICE

When MHA or Mixed-Finance Owner evicts an individual or family for criminal activity, including drug-related criminal activity, MHA or Mixed-Finance Owner will notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

- A written record of every termination and/or eviction will be maintained by MHA or Mixed-Finance Owner at the development where the family was residing, and will contain the following information:
- Name of resident, number and identification of unit occupied
- Date of the notice of lease termination and any other notices required by state or local

law; these notices may be on the same form and will run concurrently

- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of
- conference participants, and conclusions

Chapter 14

GRIEVANCES AND APPEALS

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When MHA or Mixed-Finance Owner makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses MHA or Mixed-Finance Owner policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a development. Applicants to public housing are not entitled to the same hearing process afforded tenants in MHA or Mixed-Finance Owner's grievance procedure.

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

Use of Informal Hearing Process

MHA or Mixed-Finance Owner offers the opportunity of an informal hearing to applicants who have been determined as ineligible for admission. Applicants are not entitled to the same hearing process available to tenants.

MHA or Mixed-Finance Owner will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial

MHA or Mixed-Finance Owner will give an applicant prompt notice of a decision denying eligibility for admission. The notice will contain a brief statement of the reason(s) for MHA or Mixed-Finance Owner decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice will describe how to obtain an informal hearing.

Prior to notification of denial, based on information obtained from criminal or sex offender registration records, the family, in some cases, will be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

A request for an informal hearing must be made in writing and delivered to MHA or Mixed-Finance Owner either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of MHA or Mixed-Finance Owner's notification of denial of admission.

Except as provided in Section 3-III.F, MHA or Mixed-Finance Owner will schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing

The informal hearing will be conducted by a person other than the one who made the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of MHA or Mixed-Finance Owner.

The person conducting the informal hearing will make a recommendation to MHA or Mixed-Finance Owner, but MHA or Mixed-Finance Owner is responsible for making the final decision as to whether admission should be granted or denied.

Informal Hearing Decision

MHA or Mixed-Finance Owner will notify the applicant of MHA or Mixed-Finance Owner's final decision, including a brief statement of the reason(s) for the final decision.

In rendering a decision, MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner 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. MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner will uphold the decision to deny admission. If the facts prove the grounds for denial, and the denial is discretionary, MHA or Mixed-Finance Owner will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

MHA or Mixed-Finance Owner will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume. If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and MHA or Mixed-Finance Owner will consider such accommodations. MHA or Mixed-Finance Owner must also consider reasonable accommodation requests pertaining to the reasons for denial, if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS

Denial or termination of assistance, based on immigration status, is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while MHA or Mixed-Finance Owner hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or MHA or Mixed-Finance Owner informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family that they have the right request and inform hearing.

United States Citizenship and Immigration Services Appeal Process

When MHA or Mixed-Finance Owner receives notification that the USCIS secondary verification failed to confirm eligible immigration status, MHA or Mixed-Finance Owner will notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide MHA or Mixed-Finance Owner with a copy of the written request for appeal and proof of mailing.

MHA or Mixed-Finance Owner will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results. The family must provide MHA or Mixed-Finance Owner with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the

USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to MHA or Mixed-Finance Owner, of its decision. When the USCIS notifies MHA or Mixed-Finance Owner of the decision, MHA or Mixed-Finance Owner must notify the family of its right to request an informal hearing. MHA or Mixed-Finance Owner will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that MHA or Mixed-Finance Owner provide a hearing. The request for a hearing must be made either within 30 days of receipt of MHA or Mixed-Finance Owner notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

MHA or Mixed-Finance Owner will provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of MHA or Mixed-Finance Owner pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of MHA or Mixed-Finance Owner documents no later than 12:00 p.m. on the business day prior to the hearing.

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family will also be provided the opportunity to refute evidence relied upon by MHA or Mixed-Finance Owner, and to confront and cross-examine all witnesses on whose testimony or information MHA or Mixed-Finance Owner relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the

family, or MHA or Mixed-Finance Owner, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. MHA or Mixed-Finance Owner may, but is not required to provide a transcript of the hearing. MHA or Mixed-Finance Owner will not provide a transcript of an audio taped informal hearing.

Hearing Decision

MHA or Mixed-Finance Owner will 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

MHA or Mixed-Finance Owner will retain for a minimum of 5 years the following documents that may have been submitted to MHA or Mixed-Finance Owner by the family, or provided to MHA or Mixed-Finance Owner as part of the USCIS appeal or MHA or Mixed-Finance Owner informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that MHA or Mixed-Finance Owner provide a hearing. The request for a hearing must be made either within 30 days of receipt of MHA or Mixed-Finance Owner notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status, is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS

MHA or Mixed-Finance Owner has a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any MHA or Mixed-Finance Owner action or failure to act involving the lease or MHA or Mixed-Finance Owner policies which adversely

affect their rights, duties, welfare, or status. MHA or Mixed-Finance Owner grievance procedures are included in the new move in orientation. MHA or Mixed-Finance Owner grievance procedure will be incorporated by reference in the tenant lease.

MHA or Mixed-Finance Owner will provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in MHA or Mixed-Finance Owner grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by MHA or Mixed-Finance Owner before adoption of any grievance procedure changes by MHA or Mixed-Finance Owner.

Residents and resident organizations will have 30 calendar days from the date they are notified by MHA or Mixed-Finance Owner of any proposed changes in MHA or Mixed-Finance Owner grievance procedure, to submit written comments to MHA or Mixed-Finance Owner.

MHA or Mixed-Finance Owner will provide a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to MHA or Mixed-Finance Owner action or failure to act in accordance with the individual tenant’s lease or MHA or Mixed-Finance Owner regulations which adversely affect the individual tenant’s rights, duties, welfare or status.
- **Complainant** – any tenant whose grievance is presented to MHA or Mixed-Finance Owner or at the development management office.
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction . Right of the tenant to be represented by counsel.
 - Opportunity for the tenant to refute the evidence presented by MHA or Mixed-Finance Owner including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have.
 - A decision on the merits.
- **Hearing Officer/Panel** – a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto.
- **Tenant** – the adult person (or persons) (other than a live-in aide) -
 - who resides in the unit, and who executed the lease with MHA or Mixed-Finance Owner as lessee of the dwelling unit, or, if no such person now resides in the unit.
 - who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

- **Resident Organization** – includes a resident management corporation.

14-III.C. APPLICABILITY

Potential grievances could address most aspects of a MHA or Mixed-Finance Owner's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to MHA or Mixed-Finance Owner. It is not applicable to disputes between tenants not involving MHA or Mixed-Finance Owner. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of MHA or Mixed-Finance Owner.

MHA or Mixed-Finance Owner is not located in a due process state, therefore it must grant opportunity for grievance hearings for all lease terminations, regardless of cause.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE

HUD regulations state that any grievance must be personally presented, either orally or in writing, to MHA or Mixed-Finance Owner administrative office or to the office of the development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

MHA or Mixed-Finance Owner will accept requests for an informal settlement of a grievance, either orally or in writing, to MHA or Mixed-Finance Owner's offices within 5 business days of the grievable event. Within 5 business days of receipt of the request MHA or Mixed-Finance Owner will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

If the tenant fails to attend the scheduled meeting, without prior notice, MHA or Mixed-Finance Owner will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in MHA or Mixed-Finance Owner's tenant file. The summary should specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

MHA or Mixed-Finance Owner will prepare a summary of the informal settlement within 5 business days; one copy to be given to the tenant and one copy to be retained in MHA or Mixed-Finance Owner's tenant file.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

All grievances will be presented in accordance with the informal procedures prescribed in the grievance procedure as a condition prior to a grievance hearing.

The complainant must submit the request in writing for a grievance hearing within a reasonable time after receipt of the summary of informal discussion. The request must specify the reasons for the grievance and the action or relief sought.

The resident must submit a written request for a grievance hearing to MHA or Mixed-Finance Owner within 5 business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, MHA or Mixed-Finance Owner'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 MHA or Mixed-Finance Owner's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings

If the complainant has complied with all requirements for requesting a hearing, as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and MHA or Mixed-Finance Owner. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate MHA or Mixed-Finance Owner official.

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and MHA or Mixed-Finance Owner.

14-III.F. SELECTION OF HEARING OFFICER/PANEL

The grievance hearing will be conducted by an impartial person or persons appointed by MHA or Mixed-Finance Owner, other than the person who made or approved MHA or Mixed-Finance Owner action under review, or a subordinate of such person.

MHA or Mixed-Finance Owner grievance hearings will be conducted by a single hearing officer and not a panel.

MHA or Mixed-Finance Owner will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

14-III.G. PROCEDURES GOVERNING THE HEARING

Rights of Complainant

The complainant will be afforded a fair hearing. This includes:

The opportunity to examine before the grievance hearing any MHA or Mixed-Finance Owner documents, including records and regulations, that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense.

If MHA or Mixed-Finance Owner does not make the document available for examination upon

request by the complainant, MHA or Mixed-Finance Owner may not rely on such document at the grievance hearing.

The tenant will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of MHA or Mixed-Finance Owner documents no later than 12:00 p.m. on the business day prior to the hearing.

The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.

Hearings may be attended by the following applicable persons:

- A MHA or Mixed-Finance Owner representative(s) and any witnesses for MHA or Mixed-Finance Owner
- The tenant and any witnesses for the tenant
- The tenant's counsel or other representative
- Any other person approved by MHA or Mixed-Finance Owner as a reasonable accommodation for a person with a disability

The right to a private hearing unless the complainant requests a public hearing.

The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by MHA or Mixed-Finance Owner or development management, and to confront and cross-examine all witnesses upon whose testimony or information MHA or Mixed-Finance Owner or development management relies.

A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear

If the complainant or MHA or Mixed-Finance Owner fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and MHA or Mixed-Finance Owner will be notified of the determination by the hearing officer/panel. Provided, that a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest MHA or Mixed-Finance Owner's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact MHA or Mixed-Finance Owner within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or

welfare of the family.

General Procedures

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter, MHA or Mixed-Finance Owner will sustain the burden of justifying MHA or Mixed-Finance Owner action or failure to act against which the complaint is directed.

The hearing will be conducted informally by the hearing officer/panel. MHA or Mixed-Finance Owner and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- **Oral evidence:** the testimony of witnesses
- **Documentary evidence:** a writing which is relevant to the case, for example, a letter written to MHA or Mixed-Finance Owner. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence:** A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made, other than by a witness, while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If MHA or Mixed-Finance Owner fails to comply with the discovery requirements (providing the tenant with the opportunity to examine MHA or Mixed-Finance Owner documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of MHA or Mixed-Finance Owner to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer/panel must require MHA or Mixed-Finance Owner, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer/panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

The complainant or MHA or Mixed-Finance Owner may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

If the complainant would like MHA or Mixed-Finance Owner to record the proceedings by audiotape, the request must be made to MHA or Mixed-Finance Owner by 12:00 p.m. on the business day prior to the hearing.

MHA or Mixed-Finance Owner will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities

MHA or Mixed-Finance Owner will provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

A copy of the decision must be sent to the tenant and MHA or Mixed-Finance Owner. MHA or Mixed-Finance Owner will retain a copy of the decision in the tenant's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by MHA or Mixed-Finance Owner and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel.

In rendering a decision, the hearing officer will consider the following matters:

- **MHA or Mixed-Finance Owner Notice to the Family:** The hearing officer will determine if the reasons for MHA or Mixed-Finance Owner'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 MHA or Mixed-Finance Owner policy.
- **MHA or Mixed-Finance Owner Evidence to Support MHA 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 MHA or Mixed-Finance Owner'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 MHA or Mixed-Finance Owner policies. If the grounds for termination are not specified in the regulations or in compliance with MHA or Mixed-Finance Owner policies, then the decision of MHA or Mixed-Finance Owner will be overturned.
- The hearing officer will issue a written decision to the family and MHA or Mixed-Finance Owner no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant

Date, time and place of the hearing

Name of the hearing officer

Name of MHA or Mixed-Finance Owner representative(s)
Name of family representative (if any)
Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold MHA or Mixed-Finance Owner's decision.

Order: The hearing report will include a statement of whether MHA or Mixed-Finance Owner's decision is upheld or overturned. If it is overturned, the hearing officer will instruct MHA or Mixed-Finance Owner to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct MHA or Mixed-Finance Owner to restore the family's status.

Procedures for Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of MHA or Mixed-Finance Owner will take effect and another hearing will not be granted.

Final Decision

When MHA or Mixed-Finance Owner considers the decision of the hearing officer to be invalid, it will present the matter to MHA Board of Commissioners within 10 business 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 10 business days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners in favor of MHA or Mixed-Finance Owner or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court.

Chapter 15

PROGRAM INTEGRITY

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide MHA with a powerful tool for preventing errors and program abuse. MHA or Mixed-Finance Owner is required to use the EIV system in its entirety in accordance with HUD administrative guidance. MHA or Mixed-Finance Owner is further required to:

- Provide applicants and residents with form HUD-52675, “Debts Owed to MHA or Mixed-Finance Owner and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

The MHA or Mixed-Finance Owner anticipates that the vast majority of families and MHA or Mixed-Finance Owner employees intends to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the MHA or Mixed-Finance Owner’s program is administered effectively and according to the highest ethical and legal standards, the MHA or Mixed-Finance Owner will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- The MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner 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 2010-19. In addition, the MHA or Mixed-Finance Owner will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- The MHA or Mixed-Finance Owner will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.
- MHA or Mixed-Finance Owner staff will be required to review and explain the contents of all HUD-and MHA or Mixed-Finance Owner required forms prior to requesting family member signatures.
- The MHA or Mixed-Finance Owner will place a warning statement about the

penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key MHA or Mixed-Finance Owner forms and form letters that request information from a family member.

- The MHA or Mixed-Finance Owner will provide each MHA or Mixed-Finance Owner employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the MHA or Mixed-Finance Owner will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

The MHA or Mixed-Finance Owner will employ a variety of methods to detect errors and program abuse, including:

- The MHA or Mixed-Finance Owner routinely will use available sources of up-front income verification, including HUD’s EIV system, to compare with family-provided information.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The MHA or Mixed-Finance Owner will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all HAs, that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of MHA or Mixed-Finance Owner activities and notifies the MHA or Mixed-Finance Owner of errors and potential cases of program abuse.

MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner’s error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

MHA or Mixed-Finance Owner will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the MHA or Mixed-Finance Owner Will Investigate

MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information

MHA or Mixed-Finance Owner will investigate possible instances of error or abuse using all available MHA or Mixed-Finance Owner and public records. If necessary, the MHA or Mixed-Finance Owner will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to MHA or Mixed-Finance Owner, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. MHA or Mixed-Finance Owner will enforce other corrective actions and penalties depend upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, MHA or Mixed-Finance Owner 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

MHA or Mixed-Finance Owner will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the MHA or Mixed-Finance Owner determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, MHA or Mixed-Finance Owner will promptly correct the tenant rent and any utility reimbursement prospectively.

Increases in the tenant rent will be implemented only after the family has received 30 days notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse MHA or Mixed-Finance Owner is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows MHA or Mixed-Finance Owner to use incorrect information provided by a third party.

Family Reimbursement to MHA or Mixed-Finance Owner

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. MHA or Mixed-Finance Owner 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, MHA or Mixed-Finance Owner will terminate the family's lease in accordance with the policies in Chapter 13.

MHA or Mixed-Finance Owner Reimbursement to Family

MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner.
- Provide incomplete or false information to the MHA or Mixed-Finance Owner.
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income or family composition.

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the MHA Board of Commissioners, employees, contractors, or other MHA 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 MHA or Mixed-Finance Owner 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.

MHA or Mixed-Finance Owner may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the MHA or Mixed-Finance Owner may, at its discretion, impose any of the following remedies.

- MHA or Mixed-Finance Owner may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to MHA or Mixed-Finance Owner).
- MHA or Mixed-Finance Owner may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- MHA or Mixed-Finance Owner may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- MHA or Mixed-Finance Owner may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. MHA OR MANAGING AGENT CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of MHA or Mixed-Finance Owner staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a MHA or Mixed-Finance Owner staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in MHA personnel policy.

MHA or Mixed-Finance Owner caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to the MHA or Mixed-Finance Owner

The family is not required to repay an underpayment of rent if the error or program abuse is caused by MHA or Mixed-Finance Owner staff.

MHA or Mixed-Finance Owner Reimbursement to Family

MHA or Mixed-Finance Owner will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

Any of the following will be considered evidence of program abuse by MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner.
- Disclosing confidential or proprietary information to outside parties.
- Gaining profit as a result of insider knowledge of MHA or Mixed-Finance Owner activities, policies, or practices.
- Misappropriating or misusing public housing funds.
- Destroying, concealing, removing, or inappropriately using any records related to the public housing program.
- Committing any other corrupt or criminal act in connection with any federal housing program.

15-IL.D. CRIMINAL PROSECUTION

When MHA or Mixed-Finance Owner determines that program abuse by a family or MHA or Mixed-Finance Owner staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, MHA or Mixed-Finance Owner 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

MHA or Mixed-Finance Owner may 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 MHA or Mixed-Finance Owner recovers.

If MHA or Mixed-Finance Owner does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through MHA or Mixed-Finance Owner's grievance process.

Chapter 16

PROGRAM ADMINISTRATION

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

MHA or Mixed-Finance Owner will maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents.

16-I.B UTILITY ALLOWANCES

MHA or Mixed-Finance Owner has established separate allowances for each utility and for each category of dwelling units that MHA or Mixed-Finance Owner determines to be reasonably comparable as to factors affecting utility usage.

The objective of MHA or Mixed-Finance Owner in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

- Utilities include gas, electricity, water, and sewerage.
- Costs for telephone, cable/satellite TV, and internet services are not considered utilities.

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

Utility Allowance Revisions

MHA or Mixed-Finance Owner will review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in.

MHA or Mixed-Finance Owner may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Between annual reviews of utility allowances, MHA or Mixed-Finance Owner will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR MHA-FURNISHED UTILITIES

MHA will not charge a surcharge for MHA furnished utilities.

16-I.D. NOTICE REQUIREMENTS

MHA or Mixed-Finance Owner will give notice to all residents of proposed allowances and revisions thereof.

The notice will be given in the manner provided in the lease and must:

- Be provided at least 120 days before the proposed effective date of the allowances, scheduled or revisions.
- Describe the basis for determination of the allowances, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances.
- Notify residents of the place where MHA or Mixed-Finance Owner's documentation on which allowances are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances or revisions.

16-1.E. REASONABLE ACCOMMODATION

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are market based rents. They vary by unit size and type and also by development location. Once each year, at the annual recertification, all residents are offered the choice of paying an income-based rent or the flat rent. The flat rent represents the actual market value of MHA or Mixed-Finance Owner's housing units.

16-II.B. FLAT RENTS

Establishing Flat Rents

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent should be equal to the estimated rent for which MHA or Mixed-Finance Owner could promptly lease the public housing unit after preparation for occupancy.

MHA or Mixed-Finance Owner will use a reasonable method to determine flat rents. In determining flat rents, MHA or Mixed-Finance Owner will consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by MHA or Mixed-Finance Owner
- Utilities provided by MHA or Mixed-Finance Owner
- Crime in MHA or Mixed-Finance Owner 's developments and the surrounding neighborhood

Review of Flat Rents

MHA or Mixed-Finance Owner will ensure that flat rents continue to mirror market rent values.

MHA or Mixed-Finance Owner will review flat rents every three years, and adjust them as necessary to ensure that flat rents continue to mirror market rent values. Residents on flat rent will not be affected by flat rent updates until their next regular re-examination/recertification.

Recertification of Families on Flat Rents:

Families paying flat rent are required to recertify income only every three years, rather than annually. However, they are still required to participate in an Annual Re-examination in order to ensure that unit size is still appropriate and Community Service requirements are met.

Posting of Flat Rents

MHA or Mixed-Finance Owner will publicly post the schedule of flat rents in a conspicuous manner in the development site office.

Documentation of Flat Rents

MHA or Mixed-Finance Owner will maintain records that document the method used to determine flat rents, and that show how flat rents were determined by MHA or Mixed-Finance Owner in accordance with this method.

PART III: FAMILY DEBTS TO MHA OR MANAGING AGENT

16-III.A. OVERVIEW

When an action or inaction of a resident family results in the underpayment of rent or other amounts, MHA or Mixed-Finance Owner holds the family liable to return any underpayments to MHA or Mixed-Finance Owner.

MHA or Mixed-Finance Owner will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

16-III.B. REPAYMENT POLICY

Family Debts to MHA or Mixed-Finance Owner

Any amount owed to MHA or Mixed-Finance Owner by a public housing family must be repaid. If the family is unable to repay the debt within 14 days, MHA or Mixed-Finance Owner will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt and does not enter into a repayment agreement, or breaches a repayment agreement, MHA or Mixed-Finance Owner will terminate the family's tenancy in accordance with the policies in Chapter 13. MHA or Mixed-Finance Owner will also pursue other modes of collection.

General Repayment Agreement Guidelines

Down Payment Requirement

Before executing a repayment agreement with a family, MHA or Mixed-Finance Owner will generally require a down payment of 30 percent of the total amount owed. If the family can provide

evidence satisfactory to MHA or Mixed-Finance Owner that a down payment of 30 percent would impose an undue hardship, MHA or Mixed-Finance Owner may, in its sole discretion, require a lesser percentage or waive the requirement. The balance owed will be divided over a 12 month period.

Execution of the Agreement

Any repayment agreement between MHA or Mixed-Finance Owner and a family must be signed and dated by MHA or Mixed-Finance Owner and by the head of household and spouse/co-head (if applicable).

Due Dates

All payments are due by the close of business on the 5th day of the month. All payments not received by the 5th day of the month will be charged a \$25.00 late fee.

Late or Missed Payments

If a payment is not received by the end of the business day on the 5th of the month, and prior approval for the missed payment has not been given by MHA or Mixed-Finance Owner, MHA or Mixed-Finance Owner will send the family a 14 day lease termination notice.

If the payment is not received by the due date, it will be considered a breach of the agreement and MHA or Mixed-Finance Owner will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

MHA or Mixed-Finance Owner will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner.
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases.
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among MHA or Mixed-Finance Owner public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS (PHAS INDICATORS CURRENTLY UNDER REVIEW BY REAC).

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. MHA or Mixed-Finance Owner performance is based on a combination of all four indicators.

<p>Indicator 1: Physical condition of HA’s properties Maximum Score: 40</p> <ul style="list-style-type: none">• The objective of this indicator is to determine the level to which a MHA or Mixed-Finance Owner is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.• To determine the physical condition of a MHA or Mixed-Finance Owner’s properties, inspections are performed of the following five major areas of public housing: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in MHA or Mixed-Finance Owner’s public housing portfolio.
<p>Indicator 2: Financial condition of a HA Maximum Score: 25</p> <ul style="list-style-type: none">• The objective of this indicator is to measure the financial condition of a MHA or Mixed-Finance Owner for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.• MHA or Mixed-Finance Owner financial condition is determined by measuring MHA or Mixed-Finance Owner’s entity-wide performance in each of the following components: current ratio, number of months expendable fund balance, tenant receivable outstanding, occupancy loss, expense management/utility consumption, and net income or loss divided by the expendable fund balance.
<p>Indicator 3: Management operations of a HA Maximum Score: 25</p> <ul style="list-style-type: none">• The objective of this indicator is to measure certain key management operations and responsibilities of a MHA or Mixed-Finance Owner for the purpose of assessing MHA or Mixed-Finance Owner’s management operations capabilities.• MHA or Mixed-Finance Owner management operations are assessed based on the following sub-indicators: vacant unit turnaround time, capital fund, work orders, MHA or Mixed-Finance Owner annual inspection of units and systems, security, and economic

Indicator 4: Capital Fund indicator**Maximum Score: 10**

- The objective of this indicator is to measure the timely obligation of funds.
- MHA or Mixed-Finance Owner's score for this indicator is based on the results of MHA or Mixed-Finance Owner to obligate at least 90 percent of their funds within 24 months. This indicator also measures the overall occupancy rate with no allowable vacancies except

16-IV.C. PHAS SCORING

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the components under each indicator. PHAS scores translate into a designation for each HA as high performing, standard, or troubled.

A high performer is a HA that achieves a score of at least 60 percent of the points available under each of the four indicators, and achieves an overall PHAS score of 90 or greater.

A standard performer is a HA that has an overall PHAS score between 60 and 89, and does not achieve less than 60 percent of the total points available under one of the following Indicators: 1, 2, or 3.

A troubled performer is a HA that achieves an overall PHAS score of less than 60, or achieves less than 60 percent of the total points available under more than one of the following indicators: 1, 2, or 3.

These designations can affect MHA or Mixed-Finance Owner in several ways:

- High-performing HAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions.
- HAs that are standard performers may be required to submit an improvement plan to eliminate deficiencies in HA's performance.
- HAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve MHA performance.
- HAs that fail to execute or meet MOA requirements may be referred to the Departmental Enforcement Center.

PART V: RECORD KEEPING**16-V.A. OVERVIEW**

MHA or Mixed-Finance Owner will maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, MHA or Mixed-Finance Owner will ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

MHA or Mixed-Finance Owner will keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date.

During the term of each public housing tenancy, and for at least four years thereafter, MHA or Mixed-Finance Owner will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, MHA or Mixed-Finance Owner will keep the following records for at least four years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents and the public housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
Documentation supporting PHAS scores
- Accounts and other records supporting MHA or Mixed-Finance Owner budget and financial statements for the program
- Other records as determined by MHA or Mixed-Finance Owner 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

MHA or Mixed-Finance Owner will maintain applicant and participant files and information in accordance with the regulatory requirements described below.

All applicant and participant information will be kept in a secure location and access will be limited to authorized MHA or Mixed-Finance Owner staff.

MHA or Mixed-Finance Owner 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

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 MHA or Mixed-Finance Owner may release the information collected.

Upfront Income Verification (UIV) Records

MHA or Mixed-Finance Owner s that access UIV data through HUD's Enterprise Income

Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g.

electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

Prior to utilizing HUD's EIV system, MHA or Mixed-Finance Owner will adopt and implement EIV security procedures required by HUD.

Criminal Records

MHA or Mixed-Finance Owner may only disclose the criminal conviction records which MHA or Mixed-Finance Owner receives from a law enforcement agency to officers or employees of MHA or Mixed-Finance Owner, or to authorized representatives of MHA or Mixed-Finance Owner who have a job-related need to have access to the information.

MHA or Mixed-Finance Owner will establish and implement a system of records management that ensures that any criminal record received by MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner action without institution of a challenge or final disposition of any such litigation.

MHA or Mixed-Finance Owner will establish and implement a system of records management that ensures that any sex offender registration information received by MHA or Mixed-Finance Owner 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 MHA or Mixed-Finance Owner action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a MHA or Mixed-Finance Owner other than under 24 CFR 5.905.

Medical/Disability Records

MHA or Mixed-Finance Owner is not permitted to inquire about the nature or extent of a person's disability. MHA or Mixed-Finance Owner may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If MHA or Mixed-Finance Owner receives a verification document that provides such information, MHA or Mixed-Finance Owner should not place this information in the tenant file. MHA or Mixed-Finance Owner should destroy the document.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS

MHA or Mixed-Finance Owner has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

MHA or Mixed-Finance Owner will report the name and address of a child identified as having

an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. MHA or Mixed-Finance Owner will also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

MHA or Mixed-Finance Owner will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

MHA or Mixed-Finance Owner will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2005 (VAWA) requires MHA or Mixed-Finance Owner to inform public housing tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, MHA or Mixed-Finance Owner may elect to provide the same information to applicants.

This part describes the steps that MHA or Mixed-Finance Owner will take to ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

16-VII.B. VAWA NOTIFICATION

MHA or Mixed-Finance Owner will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 16-1)

The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that MHA or Mixed-Finance Owner may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking

A statement of MHA or Mixed-Finance Owner's obligation to keep confidential any information that it receives from a victim unless (a) MHA or Mixed-Finance Owner has the victim's written permission to release the information, (b) it needs to use the information in an eviction

proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)

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

16-VII.C. NOTIFICATION TO APPLICANTS

MHA or Mixed-Finance Owner will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of MHA or Mixed-Finance Owner confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

MHA or Mixed-Finance Owner will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.F).

16-VII.D. NOTIFICATION TO TENANTS

VAWA requires MHA or Mixed-Finance Owner to notify tenants assisted under public housing of their rights under this law, including their right to confidentiality and the limits thereof.

MHA or Mixed-Finance Owner will provide all tenants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the tenant of MHA or Mixed-Finance Owner confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

MHA or Mixed-Finance Owner will also include in all lease termination notices a statement explaining the protection against termination or eviction provided by VAWA (see Section 13-IV.D).

<p align="center">EXHIBIT 16-1: SAMPLE NOTICE TO PUBLIC HOUSING APPLICANTS AND RESIDENTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)</p>

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts

directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

The housing authority can still evict you if the housing authority can show there is an *actual* and *imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted.

Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

Proving that You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority can ask you to prove or "certify" that you are a victim of domestic violence, dating violence, or stalking. In cases of termination or eviction, the housing authority must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

Confidentiality

The housing authority must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to

- evict your abuser.
- A law requires the housing authority to release the information.
- If release of the information would put your safety at risk, you should inform the housing authority.

VAWA and Other Laws

VAWA does not limit the housing authority's duty to honor court orders about access to or control of a public housing unit. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact _____ at

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction
- VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- VAWA defines *stalking* as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that

person, or (iii) the spouse or intimate partner of that person.

III. REDETERMINATION OF RENT, DWELLING SIZE AND ELIGIBILITY:

- (A) Once a year, or as otherwise required by Landlord, Tenant agrees to furnish a signed statement and certification containing accurate information regarding family income, employment and family composition, for use by Landlord in re-determining rent, dwelling size and continued eligibility for assisted housing. In the event of failure or refusal of Tenant to report such information as required, Landlord may terminate this lease. The re-determination of rent and re-determination of proper dwelling size will be made in accordance with Landlord's computation of rents and Landlord's posted policies governing occupancy. When the Landlord re-determines the amount of rent payable by the Tenant or determines that the Tenant must transfer to another unit based on family composition, the Landlord shall notify the Tenant that the Tenant may ask for an explanation stating the specific grounds of the Landlord's determination, and that if the Tenant does not agree with the determination, the Tenant may request a hearing under the Landlord's grievance procedure.
- (B) Monthly rent as shown on page 1 of this lease, or as adjusted in accordance with the provisions herein, will remain in effect for the period between regular rent determinations, unless there is a change in family income or family composition.
- (C) Within ten (10) calendar days after there is a change in family income or family composition, Tenant agrees to provide to Landlord, in writing, verifiable information regarding such change. Family members who move from the dwelling unit shall be removed from the lease. The resident shall report the move-out, in writing, within 10 calendar days of its occurrence. These individuals may not be readmitted to the unit and must apply as a new applicant household for placement of the waiting list. Medical hardship or other circumstances shall be considered by the Landlord in making determinations under this paragraph. Also, the remaining members of the family may be overhoused according to the occupancy standards of the Landlord and required to transfer as specified below in Section IV (CC) of this dwelling lease.
- (D) Changes in rent will be made as follows:
1. Tenant agrees to pay any increase in rent resulting from an increase in family income the first of the second month following the date in which such increase in family income occurred, and to pay any back (retroactive) rent due because of failure on the part of the Tenant to report such increase in family income;
 2. A decrease in rent resulting from a decrease in family income will be effective the first of the month following the actual date of the decrease of income and/or the date the tenant reported the decrease, in writing, which ever is later. The information must be verified, in writing, by the Landlord.
 3. Tenant agrees to pay any increase in rent resulting from the implementation of changes in rent computation or increases due to changes in regulations, policies or procedures requiring implementation by the United States Department of Housing and Urban Development (HUD).
 4. Rent will not be reduced when there is a reduction in welfare payments received because of non-compliance with an economic self-sufficiency program, work activities requirements, and/or fraud in the welfare program.
 5. MINIMUM RENT HARDSHIP EXEMPTIONS: The HA shall immediately grant an exemption from application of the minimum monthly rent to any family making a proper request in writing who is unable to pay because of financial hardship, which shall include:
 - The family has lost eligibility for, or is awaiting an eligibility determination for a federal, state, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the immigration and nationalization act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

- The income of the family has decreased because of changed circumstance, including loss of employment.
- A death in the family has occurred which affects the family circumstances.
- Other circumstances which may be decided by the HA on a case-by-case basis.

Head of Household Initials	All of the above must be proven by the Resident providing verifiable information in writing to the HA prior to the rent becoming delinquent and before the lease is terminated by the HA.
----------------------------	---

6. If a resident requests a hardship exemption (**prior to the rent being delinquent**) under this section, and the HA reasonably determines the hardship to be of a temporary nature, exemption shall not be granted during a ninety day period beginning upon the making of the request for the exemption. A resident may not be evicted during the ninety-day period for non-payment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long term basis, the HA shall retroactively exempt the resident from the applicability of the minimum rent requirement for such ninety day period. This Paragraph does not prohibit the HA from taking eviction action for other violations of the lease.

IV. OBLIGATION OF TENANT;

Special Definitions Section:

Drug Related Criminal Activity: The term drug-related criminal activity means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined by Federal or State of Alabama Controlled Substances Acts.

Guest: For purposes of this lease, the term "**guest**" means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Covered person: A tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Household: The family and any HA approved live-in aide.

Other Person Under the Tenant's Control: The person, although not staying as a guest in the unit who is, or was at the time of the activity in question on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial is not under the tenant's control.

Premises: The dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised by the rental agreement to the tenant.

Violent Criminal Activity: Any 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.

TENANT AGREES:

- (A) To use premises as your sole domicile and not to assign the lease or to sublease the premises;
- (B) Not to provide accommodations for boarders, lodgers, or others not listed on the lease as household members except as provided in paragraph (D) of this Section; and not to allow any person not on the lease to use a housing authority address as his/her mailing address without the permission of the landlord.
- (C) To use the premises solely as a private dwelling for the Tenant and the Tenant's household members identified in the lease, and not to use or permit its use for any other purpose except as provided for in Section V (B) of this lease;

- (D) That guests may visit with consent of a household member. The Tenant agrees that no member of the Tenant household authorized to reside in the unit shall have a guest for more than 14 days within a calendar year without the prior written consent of the Landlord. Guests may be permitted in a dwelling unit so long as they have no previous history of behavior on Landlord premises that would be a lease violation. Visits of more than 14 days in a calendar year shall be authorized only by the Landlord with advance documentation of extenuating circumstances. Guests remaining beyond this period shall be considered unauthorized occupants and the head of household shall be guilty of a breach of the lease. Tenants will not be given permission to allow a former Tenant of the Landlord who has been evicted to occupy the unit for any period of time. **Violations of this paragraph WILL BE CONSIDERED TO BE A SERIOUS VIOLATION OF THE MATERIAL TERMS OF THIS LEASE;**
- (E) To abide by necessary and reasonable regulations promulgated by Landlord for the benefit and well being of all Tenants;
- (F) To comply with all obligations imposed upon Tenants by applicable provisions of building and housing codes that materially affect health and safety;
- (G) To keep the premises, and such other areas as may be assigned to the Tenant for the Tenant's exclusive use, in a clean and safe condition;
- (H) To dispose of all ashes, garbage, rubbish, and other waste from the premises in a safe and sanitary manner;
- (I) Tenant agrees to enter into a contract(s) with the local utility companies for utilities not furnished by the Landlord, and agrees to maintain contract(s) in force and effect during tenancy for delivery of utility services to Tenant's premises. Tenant agrees that failure to maintain continuous utility service is considered to be a serious breach of this lease in that the cessation of service of gas, electricity or water is a threat to the safety and health of Tenants of the Landlord. Landlord will not be responsible for failure to furnish utilities by reason of any cause beyond Landlord's control;
- (J) To refrain from, and to cause the household members and guests to refrain from destroying, defacing, damaging, or removing any part of the premises or project;
- (K) To pay reasonable charges other than for normal wear and tear for the repair of damages to the premises.
- (L) To act, and cause household members or guests to act, in a manner which will not disturb other Tenants' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition;
- (M) To assure that the Tenant, other persons under the Tenant's control, any member of the Tenant's household, or a guest, shall not engage in:
1. Any criminal activity on or off the Landlord's premises that the Landlord determines may interfere with or threaten the health, safety, or right to peaceful enjoyment of the premises by other Tenants, employees of the Landlord or any other person lawfully on the Landlord's premises. Any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including HA management staff residing on the premises) or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for eviction. Provided, however, the Landlord abides by the Violence Against Women Act provisions and will take appropriate action as allowed under that act.
 2. Any drug-related criminal activity on or off such premises; or any activity by a 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 in which the Landlord determines that a tenant, guest, or other person under the tenant's control is illegally using a controlled substance. The HA may evict a family when the HA determines that a household member is illegally using a drug or when the HA 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.

3. Abuse of alcohol that the Landlord determines that it has reasonable cause to believe that such illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other Tenants, employees of the Landlord, or persons legally on the premises.
4. The HA may terminate the tenancy if a member of the household is:
 - Fleeing to avoid prosecution, or custody, or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor.
 - Violating a condition of probation or parole imposed under federal or state law.
 - Furnishes false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers, the HA may terminate this lease.

VIOLATIONS OF THIS SECTION (M) SHALL BE CONSIDERED TO BE A SERIOUS VIOLATION OF THE MATERIAL TERMS OF THIS LEASE. A CRIMINAL CONVICTION OR ARREST IS NOT NECESSARY FOR THIS LEASE TO BE TERMINATED AND FOR EVICTION ACTIONS TO BEGIN. CRIMINAL ACTIVITY OR DRUG RELATED CRIMINAL ACTIVITY IS CAUSE FOR EVICTION UNDER SECTION XIV WITHOUT AN ARREST OR CONVICTION. THE HA MAY EVICT THE TENANT BY JUDICIAL ACTION FOR CRIMINAL ACTIVITY IF THE HA DETERMINES THAT THE COVERED PERSON HAS ENGAGED IN THE CRIMINAL ACTIVITY, REGARDLESS OF WHETHER THE COVERED PERSON HAS BEEN ARRESTED OR CONVICTED FOR SUCH ACTIVITY AND WITHOUT SATISFYING THE STANDARD OF PROOF USED FOR A CRIMINAL CONVICTION.

- (N) Not to keep or use inflammable materials on the premises, such as gasoline, kerosene, mineral spirits, turpentine, paint, motor oil or other inflammable materials or explosives (including fireworks);
- (O) Not to display any signs whatsoever, and not to use tacks, nails, screws, or any fasteners on any part of the premises except and under the conditions prescribed by Landlord;
- (P) Not to keep or allow dogs, cats, or any other animals or pets on the premises without the prior written consent of Landlord and in accordance with the Landlord's pet policy. Tenants are only allowed to keep common household pets in their units subject to the execution of the pet policy of the Landlord and proper execution of the Lease addendum for pets. Tenant agrees to comply with pet policy and violation of the pet rules, as outlined in the lease addendum, will be grounds for removal of the pet, termination of pet owner's tenancy or both. Violation of this Paragraph shall be considered to be a serious violation of this lease;
- (Q) To pay when due all charges due under this lease;
- (R) Not to install any clothes dryer, additional telephones, trees, shrubs, fences, additional locks, fixtures, radio or television antenna, or make any other alterations to the premises or grounds without the prior written consent of the Landlord and then only under the conditions given by the Landlord for such consent; An additional security deposit may be required for approved alterations. Amount if Applicable \$_____.
- (S) To refrain from any illegal or other activity that may be detrimental to or impair the physical or social environment of the project;
- (T) To use only in a reasonable, safe, and intended manner and only for the purpose intended, all utilities and electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other equipment and facilities;
- (U) To immediately report to the Landlord any accident or injury or damage to pipes, toilets, drains, electric wires, equipment, or other property of the Landlord, and any other breakage or loss of any kind;
- (V) To park motorized vehicles only in designated parking areas and never on grassed areas; not to display vehicles for sale; not to grease, change oil, wash, or make major repairs to such vehicles; not to leave or park motorized vehicles in an inoperative condition;

- (W) To notify Landlord no later than the fifth day of any extended absence from the premises in excess of fourteen (14) calendar days; if the tenant willfully fails to do so, the landlord may recover actual damages from the tenant. During any absence of a tenant in excess of 14 days, the landlord may enter the dwelling unit at times reasonably necessary.
- (X) To abide by all necessary regulations and policies promulgated by the Landlord for the benefit and well being of the Landlord and Tenants. Said policies and regulations are posted in the Landlord's offices and are incorporated herein by reference.
- (Y) To report to Landlord within ten (10) calendar days, in writing, after there is a change in family income or family composition and to provide Landlord, in writing, verifiable information regarding such change (see also Section III (C) of this lease);
- (Z) To complete an application, or other written request, at the option of the Landlord, for the addition of a family member due to marriage or other legitimate reason, prior to the person or persons moving into the premises.
- (AA) Not to illegally discharge any type of firearm and not to possess any illegal and/or unregistered firearm in or near the premises. This includes but is not limited to B.B. guns and air powered rifles.
- (BB) Tenant agrees to perform seasonal maintenance or other maintenance tasks where performance of such tasks by Tenants of dwelling units of a similar design and construction is customary. Tenants unable to perform such tasks because of age or disability are exempt from this obligation.
- (CC) To transfer to an appropriate size dwelling unit based on family composition, upon notice by the Landlord that such a dwelling unit is available.
- (DD) To furnish complete and accurate written information in a timely manner.
- (EE) To correct any violation (other than a lease termination of tenancy/demand for possession) within seven (7) calendar days of receipt of written notice from the Landlord of the specific violation, except as provided to the contrary herein.
- (FF) To promptly remove any personal property left on the Landlord property when Tenant leaves, abandons or surrenders the dwelling.
- (GG) Not to commit, or allow members of Tenant's household to commit any fraud in connection with any federal housing assistance program, and not to receive or allow members of Tenant's household to receive assistance for occupancy of any other dwelling assisted under any federal housing assistance program during the term of this agreement, or any subsequent renewals.
- (HH) To provide to the Landlord with 10 calendar days advanced notice of intent to vacate and terminate this agreement. The notice shall be in writing and delivered to the project office or Landlord's central office or sent by U.S. Mail properly addressed. Upon termination of this agreement, Tenant agrees that the dwelling shall not be considered "vacated" for rental charge purposes only, until such time as the keys are returned and the Landlord accepts the unit.
- (II) Tenant or family member agrees that any person who is under a "no trespassing" notice of trespassing will not be allowed in or near the dwelling unit with the consent of the head of household or a family member. It will be a serious violation of this lease to allow any such person on or near the dwelling unit after notice to tenant of the person's name and nature of trespass notice.
- (JJ) Tenant agrees to accept the HA's offer of a revision to the existing lease. The HA may terminate the tenancy if the family fails to accept the HA's offer of a revision to an existing lease within a reasonable time as determined by the HA.
- (KK) Tenant agrees that the HA may require the tenant to exclude a household member in order to continue to reside in the unit where that household member has participated in or been culpable for action or failure to act that warrants termination of the lease. The decision to exclude is solely that of the HA.

- (LL) Tenant agrees that this lease may also be terminated if the HA discovers after admission that the tenant was ineligible for admission.
- (MM) Tenant agrees that this lease may be terminated if the HA discovers material false statements or fraud by the tenant in connection with the application for assistance or with reexamination of income.
- (NN) An operational smoke detector is located in each apartment unit. Resident agrees to keep the smoke detector fully operational at all times and will immediately notify Landlord of any smoke detector malfunction. At no time will resident, any member of the household or any guest or the resident alter the smoke detector. Any such attempt or alteration shall be considered to be a serious breach of the lease and shall be grounds for termination of tenancy.
- (OO) Tenant agrees that the tenant and members of his/her household and guests of the resident will not use loud, profane, abusive or threatening language when speaking to or in the presence of HA staff or representatives of the HA.
- (PP) The tenant may not hold payment of rent to the landlord, while in possession, to enforce any of the tenant's rights under this dwelling lease:
- (QQ) Comply with any and all Rules adopted by the MHA to implement the federal Act known commonly as the **VIOLENCE AGAINST WOMEN AND DEPARTMENT OF JUSTICE REAUTHORIZATION ACT OF 2005**.
- (RR) **To abide by the Loitering Policy. Tenant agrees that the tenant and members of his/her household and guest of the resident will not Loiter or linger idly or aimlessly in any area of the premise.**
- (SS) **To abide by the Barbecue Grill Policy and not allow Gas barbecue grills on the premise.**
- (TT) Tenant agrees that the tenant and members of his/her household and guests of the resident will wear a shirt/clothes at all times while outside on the premise. Proper attire is required when visiting the management office.
- (UU) Not to keep, or allow any swimming pools, wading pools, tents, satellite systems swing/gym sets, or basketball goals on the premises without written consent from the Landlord.
- (VV) Residents are not allowed to grant permission for anyone to use any property, owned or managed by the MHA, unless a Use of Community Property form has been submitted and approved by the Executive Director.
- (WW) Annual recertification or flat rent updates are required for continued occupancy in public housing. Failure to comply may result in lease termination.
- (XX) Tenant, family members or guest are required to abide by the Smoke Free Policy, in communities, where applicable.
- (YY) Tenant and all adult household members are required to abide by the Work Activity Policy in communities where applicable.
- (ZZ) Tenant and all adult household members are required to authorize, the Housing Authority to request tax return statements at time of recertification.
- (AAA) Tenant and all adult household members are required to authorize, the Housing Authority to request tax return statements at time of recertification.

V. TENANT'S RIGHT TO USE AND OCCUPANCY:

- (A) The Tenant, and members of the household authorized to reside on the premises in accordance with the lease, shall have the right to exclusive use and occupancy of the premises, including reasonable accommodation of guests. For purposes of this lease, the term "**guest**" means a person on the premises with the consent of a household member.
- (B) With the prior written consent of the Landlord, Tenant and members of the household may engage in legal profit-making activities on the premises, when the Landlord determines that such activities are incidental to the primary use of the premises for a residence by members of the household.
 - 1. With the prior written consent of the Landlord, a foster child or a live-in aide may reside on the premises. The factors considered by the Landlord in determining whether or not consent is granted may include:
 - (a) Whether the addition of a new occupant may require a transfer of the family to another unit, and whether such units are available.
 - (b) The Landlord's obligation to make reasonable accommodation for handicapped persons.
 - 2. *Live-in aide* means a person who resides with an elderly, disabled or handicapped person and who:
 - (a) Is determined to be essential to the care and well being of the person;
 - (b) Is not obligated for the support of the person; and
 - (c) Would not be living in the unit except to provide the necessary supportive services.

VI. ENTRY OF PREMISES DURING TENANCY:

Landlord may enter the premises under the following conditions:

- (A) Landlord shall, upon written notification stating the intended time and purpose of the entry delivered or posted on the primary door of the premises in advance at least two (2) calendar days or more, be permitted to enter the premises during reasonable hours for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the premises for re-leasing. Provided, however, the HA and the tenant hereby agree that the HA may enter the unit for any reasonable purpose (pest control, inspections, preventive maintenance, etc.) whatsoever during business hours on Tuesday, Wednesday, and/or Thursday of the third week of each month without any further notice.
- (B) Landlord may enter the premises at any time without advance notification pursuant to a court order, the landlord has reasonable cause to believe the tenant has abandoned or surrendered the premises, when there is reason to believe an emergency exists; or when Tenant requests repairs, maintenance or services.
- (C) In the event Tenant and all adult members of the household are absent from the premises at the time of entry, Landlord shall leave a notice specifying the date, time and purpose of entry prior to leaving the premises.
- (D) If a tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the dwelling lease. In either case, the landlord may recover actual damages.

VII. OBLIGATIONS OF LANDLORD; LANDLORD AGREES:

- (A) To maintain the premises and other project premises in decent, safe, and sanitary condition;
- (B) To comply with requirements of applicable building codes, housing codes, and U.S. Department of Housing and Urban Development regulations that materially affect health and safety;
- (C) To make necessary repairs to the premises;

- (D) To keep project premises, facilities and common areas, not otherwise assigned to Tenant for maintenance and upkeep, in a decent, clean, safe and sanitary condition;
- (E) To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, supplied or required to be supplied by Landlord; provided; however, that the Landlord is not responsible for damages caused by the malfunction of a refrigerator or freezer which causes damages to food or other personal property;
- (F) To provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of an individual Tenant family) for the deposit of ashes, garbage, rubbish and other waste removed from the dwelling unit by the Tenant in accordance with Section IV (H) of this lease;
- (G) To supply running water and reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year (according to local custom and usage) except where the building that includes the premises is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of the Tenant and supplied by a direct utility connection.
- (H) To post schedules of special charges for services, repairs and utilities and rules and regulations which are incorporated by reference in this lease in the Landlord's project office and to furnish such documents to Tenants and applicants upon request.

Such schedules, rules and regulations may be modified from time to time by the Landlord provided that the Landlord shall give at least 30-days written notice to each affected tenant setting forth the proposed modification, the reasons therefore, and providing the Tenant an opportunity to present written comments which shall be taken into consideration by the Landlord prior to the proposed modification becoming effective. The lease may be modified after giving residents sixty (60) days notice. A copy of such notice of proposed modification shall be:

1. Delivered directly or mailed to each Tenant; or
 2. Posted in at least three (3) conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project.
- (I) To post in the office of Tenant's complex, or if there is not a property office, the central office of the Landlord, copies of all rules, regulations, schedules of charges and other documents which are part of this agreement, whether by attachment or reference, and to make any changes or modifications available to Tenant.
 - (J) Adopt such rules and regulations as necessary to comply with and implement the provisions and requirements of the **VIOLENCE AGAINST WOMEN AND DEPARTMENT OF JUSTICE REAUTHORIZATION ACT OF 2005**.

VIII. DEFECTS HAZARDOUS TO LIFE, HEALTH OR SAFETY:

In the event the premises are damaged to the extent that conditions are hazardous to life, health or safety of the Tenants, it is agreed that the following terms and conditions apply:

- (A) The Tenant shall immediately notify Landlord of the damage;
- (B) The Landlord shall be responsible for repair of the unit within a reasonable time: *Provided*, That if the damage was caused by the Tenant, Tenant's household members or guests, the reasonable cost of the repairs shall be charged to the Tenant;
- (C) Landlord shall offer standard alternate accommodations, if available, in circumstances where necessary repairs cannot be made within a reasonable time unless the Tenant rejects the alternative accommodation or if the damage was caused by the Tenant, members of the Tenant household or guests.

- (D) Rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling if repairs are not made in accordance with Paragraph (B) of this Section or alternative accommodations not provided in accordance with Paragraph C of this Section, except that no abatement of rent shall occur if the Tenant rejects the alternative accommodation or if the damage was caused by the Tenant, members of the Tenant household or guests.
- (E) **HEALTH & SAFETY VIOLATIONS** - A violation of any of the safety and health and safety hazards mentioned below will be considered a serious violation of your dwelling lease and may result in the termination of your lease and eviction.
1. **TRIPPING HAZARDS:** Exposed cords, for example: extension, cable, telephone, etc, are a tripping hazard and are not allowed on the floor or stairway of your apartment.
 2. **BEDROOMS WITH ONLY ONE WINDOW:** You are not allowed to block a window with anything, for example: furniture, a fan, an air conditioner, etc., in any bedroom with only one window. In case of a fire or some other disaster, there must be a way to exit this room to the outside
 3. **FIRE EXTINGUISHERS:** Any resident owned fire extinguisher must meet state and federal fire codes. Your fire extinguisher must be inspected once a year by a fire extinguisher service company and tagged with certification date, etc. If your fire extinguisher does not meet with safety requirements or is not properly charged, it must be removed from your apartment, because it is considered a safety hazard.
 4. **WINDOW AIR CONDITIONERS:** Any window air conditioner must have a faceplate cover; otherwise, the unit must be removed from the apartment, because it is considered a safety hazard.
 5. **SMOKE ALARMS:** Federal Regulations requires a working smoke alarm in each level of your apartment and according to your lease you cannot tamper with or cover your smoke alarm at any time, for any reason. If you tamper with or cover your smoke alarm you will be charged any and all appropriate posted maintenance charges for this offense and you may receive a notice to terminate your lease.
 6. **ELECTRICAL:** All electrical panels/boxes/outlets must remain covered with switch plates and/or plug covers. It is also a violation to tamper with external/internal breaker or meter bases.
 7. **HOT WATER HEATERS AND SPACE HEATERS:** Due to a fire hazard, no items are to be placed on top of or around your hot water heater or your space heater.
 8. **DOOR LOCKS AND WINDOW LOCKS:** All entrance door locks and window locks must function properly, in order to secure your apartment. Please report any problems with your door locks and/or window locks to the maintenance department.

IX. ABANDONED PROPERTY AND FURNISHINGS:

Upon the abandonment of the premises, the Tenant hereby appoints the Landlord and/or the Landlord's employee's permission, to remove and dispose of all personal property of whatever nature, including furniture and equipment left in or about the premises.

The Landlord shall inventory the property of the abandoned premises prior to removal and shall have the listing of the inventory witnessed.

If the tenant abandoned the premises, then the Landlord is hereby authorized to dispose of said property.

The Landlord may take possession of the dwelling after the Tenant has been notified in writing. In the absence of actual knowledge of abandonment, it shall be presumed that Tenant has abandoned the dwelling, if Tenant is absent from the dwelling for a period of fourteen (14) days from date of discovery, the rent is not current, and Tenant has not notified the Landlord in writing in advance of an intended absence, or otherwise as provided in this Agreement.

X. NOTICES:

- (A) The Landlord shall notify the Tenant of the specific grounds for any proposed adverse action by Landlord. (Such adverse action includes, but is not limited to, a lease termination/demand for possession (If Applicable), transfer of the Tenant to another unit, or imposition of charges for maintenance and repair, or for excess consumption of utilities.)
- (C) The Landlord shall notify the Tenant of the opportunity for a hearing under the Landlord's grievance procedure for a grievance concerning a proposed adverse action except as provided in Section XII (F) of this lease:
1. The notice of proposed adverse action shall inform the Tenant of the right to request such hearing. In the case of a lease termination/demand for possession, a notice of lease termination/demand for possession in accordance with Section XI(B) shall constitute adequate notice of proposed adverse action.
 2. In the case of a proposed adverse action other than a lease termination/demand for possession, the Landlord shall not take the proposed action until the time for the Tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the Tenant) the grievance process has been completed.
- (D) All notices in this lease may run concurrently without further notice at the discretion of the Landlord.

XI. NOTICE PROCEDURES:

- (A) The Landlord and the Tenant in giving notice one to the other shall use the following procedures:
- Except as provided in Paragraph C of this Section, notice to a Tenant shall be in writing and delivered in hand to the Tenant or to an adult member of the Tenant's household residing in the dwelling, or shall be considered delivered three calendar days after mailing with adequate prepaid postage in the United States mailed to the tenant's last known place of residence.
 - Notice to the Landlord shall be in writing, delivered to the project office or the Landlord's central office or sent by U/S. first class mail properly addressed.
- (B) Notice to terminate/vacate from Landlord shall comply with Alabama Law. Notice provided in this section does not apply to the notice required to terminate a tenancy or evict a tenant.
- (C) If the Tenant is visually impaired; all notices must be in a format understandable by Tenant.

TENANT AGREES TO GIVE LANDLORD 10 CALENDAR DAYS WRITTEN NOTICE OF HIS/HER INTENT TO VACATE THE APARTMENT UNIT.

XII. TERMINATION OF TENANCY AND EVICTION:

- (A) Landlord shall not terminate or refuse to renew this lease other than for serious or repeated violations of material terms of this lease such as failure to make payments due under this lease or to fulfill obligations of Tenant set forth in this lease or for other good cause. Good cause includes, but is not limited to:
- Criminal or other activity by a member of the household that threatens the health or safety of other public housing residents, HA employees, or of persons residing in the immediate vicinity of the premises; or
 - Criminal or other activity by a member of the household that threatens the health or safety of HA management staff.
- (B) If there is a material noncompliance by the tenant with the dwelling lease, the landlord may deliver a written notice to terminate the lease to the tenant specifying the acts and omissions constituting the breach and that the dwelling lease will terminate in fourteen (14) calendar days after receipt of the notice. If the breach is not remedied within the 14 days after the receipt of the notice, in which case the dwelling lease shall not terminate.

- (E) The notice of lease termination/demand for possession shall state specific grounds for termination, and shall inform the Tenant of the Tenant's right to make such reply as the Tenant may wish. **The notice of lease termination and demand for possession may be combined into one document.** When the Landlord is required to afford the Tenant the opportunity for a grievance hearing, the notice shall also inform the Tenant of the Tenant's right to request a hearing in accordance with the Landlord's grievance procedure. The Landlord shall provide the Tenant a reasonable opportunity to examine, at the Tenant's written request, before a grievance hearing or judicial proceeding concerning a termination of tenancy or eviction, any documents, including records and regulations, which are in the possession of the Landlord, and which are directly relevant to the termination of tenancy or eviction. The Tenant shall be provided a copy of any such document at the Tenant's expense.
- (D) Any federally and state required notices shall run concurrently.
- (E) When the Landlord is required to afford the Tenant the opportunity for a hearing under the Landlord's grievance procedure for a grievance concerning the lease termination, the tenancy shall not terminate (even if any notice period provided for in Section XII. has expired) until the time for the Tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the Tenant) the grievance process has been completed.
- (F) When the Landlord is not required to afford the Tenant the opportunity for a hearing under the Landlord's grievance procedure, the notice of lease termination/demand for possession under this lease shall:
1. State that the Tenant is not entitled to a grievance hearing on the termination.
 2. Specify the judicial eviction procedure to be used by the Landlord for eviction of the Tenant, and state that the U.S. Department of Housing and Urban Development has determined that this eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in U.S. Department of Housing and Urban Development regulations.
 3. State whether the eviction is for any activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants or employees of the Landlord; or any criminal activity or drug - related criminal activity on or off such premises.
- (G) If a tenant leaves property in the unit more than 14 days after termination by the landlord or termination by the tenant pursuant to this lease, the landlord has no duty to store or protect the tenant's property in the unit and may dispose of it without obligation.

XIII. EVICTION ONLY BY COURT ACTION:

The Landlord may evict the Tenant from the unit only by complying with State of Alabama statutory eviction requirements.

XIV. EVICTION FOR CRIMINAL ACTIVITY:

- (A) *Landlord discretion to consider circumstances.* In deciding to evict for criminal activity, the Landlord shall have discretion to consider all the circumstances, including the seriousness of the offense, the extent of participation by family members, and the effects that the eviction would have on family members not involved in the criminal activity. In appropriate cases, the Landlord may permit continued occupancy by remaining family members and may impose a condition that family members who engaged in the criminal activity will not reside or be present on the premises without permission of the Landlord. A Landlord may require a family member who has engaged in the illegal use of drugs to present evidence of successful completion of a treatment program as a condition to being allowed to reside on the premises.
- (B) *Notice to Post Office.* When Landlord evicts an individual or family from the premises for engaging in criminal activity, including drug-related criminal activity, the Landlord shall notify the local post office serving the premises that such individual or family is no longer residing on the premises.

XV. ACCOMMODATION OF PERSONS WITH DISABILITIES:

- (A) A handicapped person shall be provided reasonable accommodation to the extent necessary to provide the handicapped person with an opportunity to use and occupy the dwelling unit equal to a non-handicapped person.
- (B) The Landlord shall provide a notice to each Tenant that the Tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the Tenant can meet lease requirements or other requirements of tenancy.

Changes to this lease must be made by written addenda to this lease executed by both parties except for changes provided for in Section VII (H) of this lease. The failure of the family to accept the HA's offer of a revision to existing lease shall be grounds for termination.

XVII. FAILURE TO PERFORM:

Tenant agrees that failure of the Landlord to insist upon strict performance of terms, covenants, agreements and conditions contained in this Lease, shall not constitute or be construed as a waiver or relinquishment of the Landlord's rights thereafter to enforce any such terms, covenant, agreement or condition and the same shall continue in full force and effect.

XVIII. SECURITY DEPOSIT

Tenant agrees to pay a security deposit as specified in the 1st or 1st replacement page of the lease. Failure to pay the required security deposit within the stipulated time period will result in the termination of this lease. Upon termination of the tenancy, money held by the landlord as security deposit may be applied to the payment of accrued rent and the amount of damages that the landlord has suffered by reason of the tenant's noncompliance as itemized by the landlord in written notice delivered to the tenant together with the amount due in accordance with Alabama law after termination of the tenancy and delivery of possession. Rent accrues until the keys are returned and/or the 14 day notice has expired.

Upon vacating the premises, the tenant shall provide to the landlord a valid forwarding address, in writing, to which the deposit or itemized accounting, or both, may be mailed. If the tenant fails to provide a valid forwarding address, the landlord shall mail, by first class mail, the deposit or itemized accounting, or both, to the last known address of the tenant, or if none, to the tenant at the address of the property. Any deposit unclaimed by the tenant as well as any check outstanding shall be forfeited by the tenant after a period of 180 days.

XIX. SEVERABILITY:

If any provision of this lease is declared illegal or void in judicial proceedings, the remaining provisions herein shall remain in full force and effect.

XX. SOLICITATION, TRESPASSING AND EXCLUSION OF NON-TENANTS

The Landlord is committed to providing a decent, safe and sanitary environment throughout the Landlord's property. The Tenant hereby delegates to the Landlord, or agrees to the Landlord's reservation of the following rights to aid in providing a decent, safe and sanitary environment throughout the Landlord's property:

- (A) Tenant delegates to the Landlord the right, to be exercised by its employees and authorized agents, to regulate solicitation and prohibit trespassing on Landlord property by non-Tenants of the Landlord, unless the express written permission of the Landlord is properly obtained in advance and in accordance with any applicable policies and/or procedures of the Landlord. The Landlord shall exercise this right to the extent allowable by all applicable laws and/or regulations.

(B) The Landlord reserves the right, to be exercised by its employees and authorized agents, to exclude non-Tenants, including but not limited to, guests (as defined herein) who, (I) conduct themselves in a manner to disturb the Tenants' peaceful enjoyment of their accommodations, community facilities or other areas of Landlord property; (ii) engage in illegal or other activity which would impair the physical and social environment on Landlord premises; (iii) engage in any activity that may threaten the health, safety or peaceful enjoyment of Landlord premises by Tenants of the Landlord, employees of the Landlord or persons lawfully on the premises; iv) engage in criminal activity or drug-related criminal activity (as defined herein), on or off Landlord premises; (v) engage in destroying, defacing, damaging or removing Landlord equipment, vehicles and/or any part of the dwellings, buildings, facilities, or other areas of Landlord premises;

(vi) engage in the illegal use or illegal possession of firearms and/or other offensive weapons anywhere on Landlord premises; and/or (vii) intentionally violate necessary rules, regulations, policies and/or procedures set forth by the Landlord for the benefit and well being of Landlord, Tenants, employees and premises, in effect at the time this Agreement is entered into and hereafter promulgated by the Landlord, of which such non-Tenants have been made aware. Landlord shall exercise this right to the extent allowable by all applicable laws and/or regulations.

THE LANDLORD RESERVES THE RIGHT TO SECURE THE DWELLING AND/OR REMOVE THE TENANT'S PERSONAL PROPERTY TO A STORAGE FACILITY UPON THE DEATH OR INCAPACITY OF A SOLE TENANT, UNTIL SUCH TIME AS A PROPERLY VERIFIED PERSONAL REPRESENTATIVE, NEXT OF KIN, OR TENANT'S BENEFICIARY (AS LISTED BELOW), EXECUTES THE PROPER RECEIPTS REQUIRED BY THE LANDLORD FOR THE TENANT'S PERSONAL PROPERTY, OR HAS RECEIVED A COURT ORDER GIVING ACCESS, CONTROL OR POSSESSION TO TENANT'S PERSONAL PROPERTY.

XXI. DESIGNATION OF RESPONSIBLE PARTY

Tenant designates the following adult person as the party to be responsible for removal and proper disposition of Tenant's personal property in the event of the death or incapacity of a sole Tenant, or in the event that this agreement is terminated, by the Landlord, and Tenant is otherwise unavailable:

NAME _____

RELATIONSHIP _____

ADDRESS _____

HOME PHONE _____

BUSINESS PHONE _____

Property shall be stored as provided in the abandoned property of this lease, and all costs incurred by the Landlord pursuant to the schedule of charges shall be repaid prior to the removal of the property as provided herein. If the property is not removed within 30 days of notice, the Landlord may dispose of the property as provided in this agreement.

XXII. AVAILABILITY OF GRIEVANCE PROCEDURE:

All grievances concerning the obligations of the Tenant or the Landlord under this lease shall (except as provided in Section XII(F) of this lease) be resolved in accordance with the Landlord's grievance procedure.

XXIII. PRE-OCCUPANCY AND PRE-TERMINATION INSPECTIONS:

The Landlord and the Tenant or a representative of the Tenant shall inspect the premises prior to commencement of occupancy by the Tenant. The Landlord will furnish the Tenant with a written statement of the condition of the premises, and the equipment provided with the premises. The Landlord and the Tenant shall sign the statement, and the Landlord in the Tenant's files shall retain a copy of the statement. The Landlord shall inspect the premises when the Tenant vacates the premises and furnish the Tenant with a statement of any charges to be made in accordance with Section IV. (K) Of this lease. Tenant shall be provided an opportunity to participate in the termination inspection unless the Tenant has vacated the premises without notice to the Landlord.

XXIV. DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT AND LEAD-BASED PAINT RISKS.

Housing built before 1978 may contain paint containing lead. The landlord has disclosed the presence of known lead-based paint and lead-based paint risks in the dwelling and has provided a pamphlet issued by the government on lead poisoning prevention. The landlord has made available to me access to written files containing notice of risk assessments, paint inspections, and/or hazard reduction activities relating to lead paint relating to my apartment.

Head of Household's initials is Acknowledgment of:

_____ I **do not want** to review the Lead-Based Paint records referenced above; OR
 _____ I **do want** to review the Lead-Based Paint Records referenced above.
 _____ I was given the opportunity to review all the records and reports documenting the testing and abatement of lead-based paint hazards.
 _____ I received a copy of the pamphlet, " Protect Your Family from Lead in Your Home."

THE LANDLORD SHALL NOT BE RESPONSIBLE TO TENANT FOR CONDITIONS CREATED OR CAUSED BY THE NEGLIGENT OR WRONGFUL ACTS OR OMISSIONS BY TENANT, MEMBERS OF TENANT'S HOUSEHOLD, OTHER PERSONS OR GUESTS, AS DEFINED HEREIN. THE TENANT ACKNOWLEDGES THAT HE/SHE SHOULD CONSIDER OBTAINING RENTER'S INSURANCE TO COVER PERSONAL PROPERTY.

ANY DRUG RELATED OR CRIMINAL ACTIVITY SHALL BE CONSIDERED TO BE A SERIOUS VIOLATION OF THE MATERIAL TERMS OF THIS LEASE. CRIMINAL BEHAVIOR OR DRUG RELATED CRIMINAL ACTIVITY IS CAUSE FOR EVICTION. THE HA MAY EVICT THE TENANT BY JUDICIAL ACTION FOR CRIMINAL BEHAVIOR IF THE HA DETERMINES THAT THE COVERED PERSON HAS ENGAGED IN THE CRIMINAL BEHAVIOR.

RESIDENT AGREES AND ACKNOWLEDGES THAT LANDLORD SHALL HAVE NO DUTY TO PROVIDE POLICE SERVICES OR PRIVATE SECURITY TO THE RESIDENT, ANY GUESTS (INVITED OR NOT), OR THE APARTMENT COMMUNITY. RESIDENT SHALL LOOK SOLELY TO THE CITY POLICE DEPARTMENT FOR SECURITY PROTECTION. RESIDENT FURTHER AGREES AND ACKNOWLEDGES THAT, EVEN IF THE LANDLORD CHOOSES TO PROVIDE COURTESY SECURITY OR POLICE SERVICES, THESE SERVICES SHALL NOT CONSTITUTE ANY MODIFICATION OF THE ABOVE AGREEMENT. THE LANDLORD SHALL NOT BE LIABLE FOR FAILURE TO PROVIDE ADEQUATE SECURITY OR POLICE SERVICES, OR FOR CRIMINAL OR WRONGFUL ACTIONS BY OTHERS AGAINST THE RESIDENT OR GUESTS. IF THE LANDLORD DOES PROVIDE ANY SECURITY OF POLICE SERVICES, IT MAY ELECT TO REDUCE, MODIFY, TERMINATE, OR CHANGE THE NATURE, SCOPE, AND PROVIDER OF SUCH SERVICES WITHOUT NOTICE TO, OR CONSENT FROM, THE RESIDENT.

TENANT SIGNATURES	TENANT SIGNATURES
1. Head of Household	5.
2. Spouse	6.
3.	7.
4.	8.

Representative Signature for Montgomery Housing Authority Date	Title



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

ASSISTANCE ANIMAL POLICY

Assistance animals that are needed as a reasonable accommodation for persons with disabilities, are not considered pets, and thus, are not subject to HA pet policies. The resident must register the animal with the HA. Registration includes the certification from a licensed veterinarian of required pet inoculations, information to identify the pet, and the name and address of the pet owner and the name and address of a responsible party to care for the pet if the owner is unable to. The resident shall furnish the HA information at each reexamination as to the status of the animal, the continued need for the animal, and the information contained herein above.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or animals that provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals - often referred to as "service animals," "assistive animals," "support animals," or "therapy animals" perform many disability-related functions, including but not limited to the following:

- * Guiding individuals who are blind or have low vision;
- * Alerting individuals who are deaf or hearing impaired;
- * Providing minimal protection or rescue assistance;
- * Pulling a wheelchair;
- * Fetching items;
- * Alerting persons to impending seizures; or
- * Providing emotional support to persons with disabilities who have a disability-related need for such support.

The HA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. **The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability.**

The HA's refusal to modify or provide an exception to a "no pets" rule or policy to permit a person with a disability to use and live with an assistance animal would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless:

- * There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation;
- * There is reliable objective evidence that the animal would cause substantial physical damage to the property of others;
- * The presence of the assistance animal would pose an undue financial and administrative burden to the provider; or



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

* The presence of the assistance animal would fundamentally alter the nature of the provider's services.

Assistance animals are a means to provide a reasonable accommodation for an individual with a disability, but a person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal. The HA should verify that the individual requesting the assistance animal is a person with a disability and that the animal is needed to assist with the disability. The HA must also verify that the person is capable of taking care of the animal, or has made suitable arrangements for care of the animal in a sanitary manner which is consistent with the Pet Policy of the HA. The weight restrictions in the HA Pet Policy shall also be complied with unless waived by the Executive Director based upon each specific case. As with all other disability-related inquiries, the HA may not ask about the nature or severity of the resident's disability. The HA may ask for third party verification.

Resident Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA.TODAY.ORG



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHATODAY.ORG

Rent Collection Policy

1. Rent is due and payable, in advance, without notice, on or before the first day of each month and is delinquent after the fifth (5th) calendar day of the month.
2. In the event rent is not paid by the close of business on the fifth (5th) calendar day of the month, a Notice of Termination/Demand for Possession (a 14 calendar day notice), will be sent to these delinquent tenants.
3. In the event rent and other charges due are not paid by the close of business on the fifth (5th) calendar day of the month, a late payment charge of \$25.00 will be added to the tenant's account as part of charges owed.
4. In the event a tenant is sent a Notice of Lease Termination/Demand for Possession, the Montgomery Housing Authority will follow Sections XII and XIII, of the dwelling lease, for Termination of Tenancy and Eviction. Notices will be filed with the District Court of Montgomery County, Alabama, demanding judgment for the property against defendant, and/or, judgment for rent, damages, and other charges due.
5. In cases where judgment is in favor of the plaintiff, and the defendant appeals this judgment, the defendant will be required to pay rent, from the date of filing, to the court pursuant to applicable state law.

If an eviction suit for non-payment of rent is filed against a tenant, under the following circumstances, the Director of Public Housing and the Attorney for the Montgomery Housing Authority may negotiate with the tenant (and/or the tenant's legal representative) concerning settlement or disposition of an eviction suit against the tenant. The circumstances or criteria are as follows:

- a. If the eviction suit is for non-payment of rent and that ground only;
- b. If the eviction suit is the first such eviction suit filed against the tenant;
- c. If, in the opinion of the Director of Public Housing, there does not exist some other good reason to deny continued occupancy to the tenant.
- d. If, in the opinion of the Director of Public Housing, there does not exist some other good reason to deny continued occupancy to the tenant.

If each of the foregoing conditions or criteria exists, in the opinion of the Director of Public Housing, then a tenant may be allowed to pay the total charges to the date the eviction suit is set for trial, including attorney fees incurred and court cost, and the eviction suit will be dismissed. If, in the opinion of the Director of Public Housing and the attorney for Montgomery Housing Authority, an appeal by the tenant of an adverse ruling from District Court to Circuit Court can be avoided by the granting of an additional, reasonable time within which the total charges to date can be paid by the tenant, the Director of Public Housing and the Attorney for Montgomery Housing Authority may, in their discretion, grant such terms and conditions as would avoid a lengthy appeal by the tenant.

Note: If minimum rents are applicable, the collection policy will not apply to a family on minimum rent that has been approved for a minimum rent hardship exemption as allowed for in the Dwelling Lease and Admissions and Continued Occupancy Policy. This exemption only applies to families on minimum rent and when they have been approved for an exemption and only during the time of the exemption. Otherwise, the collection policy applies to all residents.

Head of Household Signature

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

SMOKE DETECTOR POLICY

Resolution No. 5227 dated August 18, 2004

GOAL

To insure that each apartment managed and maintained by the Montgomery Housing Authority (MHA) has at least one operable smoke detector on each level of each unit at all times in accordance with all applicable regulations.

APPLICABILITY

All MHA managed and maintained units.

MONTGOMERY HOUSING AUTHORITY RESPONSIBILITIES

- 1. The MHA will provide at least one operable smoke detector in each floor of its rented apartments in accordance with applicable regulations.
- 2. In the case of hearing impaired residents, the MHA will provide and install a smoke detector with an alarm system designed for the hearing impaired person in each bedroom occupied by such persons. The smoke detector will be hard-wired and the hardware and smoke detector will be connected to an alarm system designed for hearing impaired and installed in the bedroom or bedrooms occupied by the hearing impaired persons.
- 3. It is the responsibility of the MHA to repair or replace an inoperable smoke detector in a rented unit within 24 hours of discovery or as report by the resident.
- 4. The MHA will inspect and test each smoke detector and batteries in a rented unit at the time of the annual inspection. In addition, each time a MHA employee enters the unit for a maintenance issue, the smoke detectors and batteries will be inspected.
- 5. The MHA will show each of its leaseholders/head of the household how to test a smoke detector in accordance to manufacturers instructions to insure that it is in good operating condition.

TENANT RESPONSIBILITIES

- 1. It is the responsibility of the resident to insure that the smoke detector(s) and their batteries that are installed in their unit is/are not altered, tampered with, remain in good operating condition and installed at all times.
- 2. By signing the Smoke Detector Agreement residents agree to test each smoke detector in their unit in accordance to manufacturers instructions at least once a month.
- 3. It is the responsibility of the tenants to report to the MHA an inoperable smoke detector immediately after the discovery of such malfunction during testing or otherwise.
- 4. If the MHA discovers that smoke detectors or its batteries have been removed, altered or tampered with by a household, the housing authority may impose a charge of \$100.00 for each smoke detector or batteries that was removed, altered and tampered with.
- 5. The Montgomery Housing Authority may also initiate eviction action by issuing a 10-day lease termination letter against the lease holder of the household that removed, altered or tampered a smoke detector or its batteries for creating a health and safety threat to themselves and others within the building in which they reside.

Tenant

HA Official Signature

Date

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHATODAY.ORG

TENANT SMOKE DETECTOR AGREEMENT FORM

I _____ THE RESIDENT AT _____

_____, AGREE THAT:

1. I RECOGNIZE THE IMPORTANCE OF PROPERLY WORKING SMOKE DETECTORS IN MY UNIT FOR MYSELF, ANYONE ELSE THAT LIVES IN THE APARTMENT WITH ME AND ANY VISITORS AS WELL AS THOSE WHO LIVE AROUND ME. IN RECOGNITION OF THIS, I UNDERSTAND THAT BY SIGNING THIS AGREEMENT I AM RESPONSIBLE FOR MAKING SURE THAT THE SMOKE DETECTORS IN MY UNIT ARE IN PROPER WORKING ORDER AT ALL TIMES.
2. I WAS SHOWN BY THE MONTGOMERY HOUSING AUTHORITY HOW TO TEST THE SMOKE DETECTORS IN MY APARTMENT IN ACCORDANCE TO MANUFACTURER'S INSTRUCTIONS.
3. I WILL TEST EACH OF THE SMOKE DETECTORS AT LEAST ONCE A MONTH IN ACCORDANCE TO MANUFACTURER'S INSTRUCTIONS.
4. I WILL REPORT TO THE MONTGOMERY HOUSING AUTHORITY ANY INOPERABLE SMOKE DETECTOR(S).
5. IF THE HOUSING AUTHORITY DISCOVERS THAT SMOKE DETECTORS OR ITS BATTERIES HAVE BEEN REMOVED, ALTERED OR TAMPERED WITH IN MY UNIT, THE HOUSING AUTHORITY MAY IMPOSE A CHARGE OF \$100.00 FOR EACH SMOKE DETECTOR OR BATTERIES THAT WAS REMOVED, ALTERED OR TAMPERED WITH.
6. THIS CHARGE WILL BE PAYABLE TO THE HOUSING AUTHORITY NOT EARLIER THAN 30 DAYS FROM THE DATE OF THE INCIDENT.
7. IN THE EVENT THAT I OR A MEMBER OF MY HOUSEHOLD ALTERS, TAMPERS OR REMOVES A SMOKE DETECTOR OR ITS BATTERIES, THE MONTGOMERY HOUSING AUTHORITY MAY INITIATE EVICTION ACTION AGAINST MY HOUSEHOLD.

TENANT

DATE

WITNESS

DATE



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

OUTDOOR TRASH & LITTER POLICY

All trash and garbage is to be kept in the 95 gallon garbage containers furnished by the MHA. You cannot leave trash in plastic bags and/or use any other type of garbage container. Also, the **only** garbage container that can be left outside of your apartment is the 95 gallon garbage container. All garbage that will attract dogs, cats, mice, rats and bugs (example, table scraps) is to be disposed of in plastic bags for health and sanitation reasons and placed in the 95 gallon containers.

If there is trash, garbage or any type of litter outside your apartment or surrounding area you will be charged a fine of **\$25.00**. If violations continue we will report your violations to the City of Montgomery for violation of Alabama Criminal Code, Criminal Littering, Section 13A-7-29. The minimum fine for violation of this Law is **\$250.00** plus Court Cost. Also, your Lease may be terminated by the MHA for repeated violations of this policy.

Garbage Pick-up by the city, except for Holidays, is scheduled for two days each week and trash pickup by the housing authority is scheduled for one day each week. These schedules are posted in the management office. If the pick-up date falls on a Holiday the pick-up date will be the next business day. You may set your garbage container out after 6:00 p.m. on the night before a schedule pick-up day or no later than 7:00 a.m. on the day of pick-up. After garbage pick-up, move your garbage container back to your apartment and close the lid. All garbage containers must be removed from the street and placed in the rear of your apartment. **All garbage containers left on the street the day after trash pick-up will be pulled to the back of your unit and you will be fined \$10.00.** If your garbage container has an odor, please clean it before placing trash inside. If your neighbors or MHA staff observes a foul odor, ants, flies, maggots, etc, around your trash container, you will be required to clean and or correct the problem within 24 hours.

Food/Grease: Throwing food and or grease outside of your unit, on the ground, in open areas, fields, across the fence line or on the curbsides are prohibited and may lead to lease termination.

Please help us keep the Public Housing Communities Clean!

This policy supersedes and replaces any previous policy of the housing authority in conflict with the terms of this policy.

Tenant Signature

Date

MHA Representative

Date

Adopted November 7, 1996 by Resolution No.5121

In an effort to make the property of the residents of the Montgomery Housing Authority cleaner, safer, and more sanitary, it is necessary to adopt this policy and to provide for its enforcement. Effective December 1, 1996, the following policy shall be in full force on the premises of the Montgomery Housing Authority:

1. The Dwelling Lease of the Montgomery Housing Authority provides in Section IV (BB) that the “Tenant agrees to perform seasonal maintenance or other maintenance tasks where performance of such tasks by Tenants of dwelling units of a similar design and construction is customary. Tenants unable to perform such tasks because of age or disability are exempt from this obligation.”

The Board of Commissioners of the Montgomery Housing Authority hereby finds that tenants must pick up trash, litter, and other debris on the outdoor areas of their apartment unit, to include that area immediately in the front of and in the rear of each unit. This is considered to be seasonal maintenance and a maintenance task which shall be customary for residents of the Montgomery Housing Authority.

If management finds that the tenant is not complying with this policy, notice shall be given to the tenant that he or she shall have three days to clean the area. Failure to clean the area shall result in the housing authority having the area cleaned, and the tenant being charged a fee for this service, which shall be due and payable in fourteen days after the tenant is billed for the same. Failure to pay this fee shall be cause for eviction. If the tenant continues to not pick up trash, litter and other debris as specified in this policy, this shall be considered to be a repeated breach of the lease and the lease shall be terminated and the eviction process initiated. In the event that a tenant is unable to perform these tasks because of age or disability, he or she shall, within ten days after the effective date of this policy, or within ten days of the occurrence of a disability, report the same to the management office and the manager shall make an appropriate determination as to whether or not said person shall be excluded from the terms of this policy. In the event that any person is unable to perform services because of age or disability, he or she shall pay a maintenance charge for housing authority personnel to clean the yard and outdoor areas of said tenant’s residence. A schedule of charges shall be posted on the bulletin board in the management office, and a copy of the same be furnished a tenant upon request.

2. During the grass cutting season, the housing authority shall notify the tenants at least three days in advance of the date of the next time the grass shall be cut. Tenants are expected to have all paper and other items which might interfere with the cutting of the grass picked up prior to mowing. If these items are not picked up when the cutting begins, the tenant shall be charged a fee as specified in Paragraph 1, and the same shall be paid in the same manner and the penalties for non-payment shall be the same as in Paragraph 1.
3. The housing authority shall make leaf bags and rakes available for tenants to check out at the management office so that these maintenance tasks shall be accomplished. Each resident shall place all materials collected in a bag and dispose of it in a safe and sanitary manner.
4. This policy shall be incorporated into the Dwelling Lease by reference and violation of this policy shall, in addition to being a violation of other portions of the lease, including Section IV (BB) shall be a violation of Section IV (X) of the lease, which states that the tenant agrees “To abide by all necessary regulations and policies promulgated by the Landlord for the benefit and well-being of the Landlord and Tenants. Said policies and regulations are posted in the Landlord’s offices and are incorporated herein by reference.”



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

**SWIMMING POOLS, OUTSIDE FURNITURE/GRILLS, ANTENNA,
TENTS, BASKETBALL GOALS & T.V. SATELLITE SYSTEMS POLICY**

No Swimming or Wading Pools, Tents, Swing/Gym Sets or Basketball Goals of any type are allowed on MHA property, except in a designated playground area provided by the Housing Authority or Parks and Recreation..

Only Outdoor Furniture and potted plants are allowed on the porches.

Junk items, tires, toys, tables, etc, are **not allowed** to be stored on the porch or outside of the unit.

Furniture is allowed to be placed on the porches of each development; however, it must be designed for outside use. Household furniture is not allowed to be placed and used outside. Also, outside furniture must be in good condition, of adequate size and not create a safety hazard or distract from the appearance of the development.

Gas Barbecue grills, are **not allowed** on the property (no exceptions). The only allowable grill is a Charcoal Barbecue grill utilizing procedures outlined in the Barbecue Grill Policy. The grill must be used in a safe manner and not used in any manner that would create a fire hazard. **UNDER NO CIRCUMSTANCE WILL GRILLS BE USED ON PORCHES OR INSIDE ANY UNIT.**

Outside Newspaper boxes are not allowed. Outside Antenna’s or T.V. Satellite system may not be installed on the exterior or roof of any unit. Antenna’s that set on top of a T.V. set and do not require any modification to the unit may be used by the tenant. A T.V. Satellite system that is designed to operate from the interior of the unit may be approved; however, the Head of Household must obtain prior approval from the Montgomery Housing Authority (MHA). The Head of Household must contact the Rental Office, during normal business hours, and request that the satellite system be approved. The Head of Household must also make the necessary arrangements to have a representative from the T.V. Satellite Company present, when staff of the MHA is scheduled to inspect the system and determine if the system can or cannot be approved for installation.

Tenant Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

RESERVED PARKING SPACES

It is the policy of the Montgomery Housing Authority to accommodate persons with disabilities as outlined in the 504 Reasonable Accommodation Housing Policy. If a resident has completed a Reasonable Accommodation request form and has been issued a Handicapped Parking Tag or Permit by the State of Alabama, the resident may be granted a Reserved Parking Space. The resident must provide the Property Manager a copy of the approved handicapped permit or registration for a handicapped tag and return all reasonable accommodation forms approving the request. Once the documentation is provided, the Property Manager will call in a work order to have a Reserved Parking Space sign installed in the parking space that is the most convenient to the resident making the request. Also, at move in and any time a resident is approved to be assigned a Reserved Parking Space, the supporting documentation must be put in the resident file. The Property Manager must provide the assigned parking space. Also, if the handicapped parking permit is issued for a temporary period, the Reserved Parking Space is only valid for the time period indicated on the parking permit.

If the resident's disability requires a fully accessible parking space, their unit number must be placed on the accessible sign or space.

The Property Manager must establish a control log for all Reserved Parking Spaces assigned. A copy of the control log is attached. An updated copy of the control log must be provided to the Public Housing Director at the end of each month and is due on the first working day after the end of the month.

When a resident moves, the Maintenance staff will remove the Reserved Parking Sign. If a resident is assigned a temporary handicapped permit, the Property Manager must submit a work order to have the sign removed when the permit expires.

Resident Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 - FAX: (334)-206-7222 - WEBSITE: MHA.TODAY.ORG

Lock Change Policy

A resident can request that their locks be changed by following the procedure listed below:

- 1. A resident must go to their Management office and request that the locks be changed.
2. The Office Manager will give the resident a form to sign, which authorizes the MHA to change the locks.
3. The lock change request contains the following information:

Date: _____

I _____ request the Montgomery Housing Authority to change my locks and I agree to pay the following charges as applicable:

Table with 2 columns: Lock Change description and Amount. Includes 1st, 2nd & 3rd, and 4th time lock changes with their respective costs and a note about \$10.00 increments thereafter.

Two keys will be provided with each lock change and if the resident requests additional keys, the cost for keys will be based on the change posted in the list of charges for keys.

The amount that I am obligated to pay based on the above list of charges and the number of times that I have had my locks changed, plus any additional keys is \$_____.

Resident Signature

Apartment Number

Telephone Number

Housing Authority Representative / Date
Original to be attached to Maintenance Work Order
Copy to Resident file



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

LOCK-OUT POLICY

Adult Head of Households that are locked-out of their apartments during regular working hours (Monday through Friday, 8:00 a.m. to 4:30 p.m.) must call the Manager's Office and request that their door be opened. **There is no charge for opening the door for the first call; however, there is a service charge of \$10.00 for opening the resident's door the second time, and \$20.00 any time after that during normal working hours.**

Also, the Montgomery Housing Authority staff will only open a door for person(s) identified on the dwelling lease. If the person making the request does not have an identification that can be verified by the Management personnel the door will not be opened. The resident must go to the Rental Office and be identified as a family member and listed on the lease. Once the Housing Manager verifies that the person making the request is listed on the lease, the Manager can authorize the unit to be opened by the Maintenance staff.

DOORS WILL NOT BE OPENED DURING NON-WORKING HOURS!

NOTE: If a resident calls in a work order for a lock-out, they must wait in the vicinity/area of the apartment and watch for the Authority's Personnel to arrive and open the apartment. If the resident is not present, the Authority Personnel will wait for ten (10) minutes. If the resident does not return to the unit, the Authority Personnel will leave and the resident will be billed the applicable charge for making the call. Also, if the resident finds their keys and the Authority staff arrives to open the unit, the resident will be billed the applicable charge. The applicable charges are contained in the list of charges, which is posted in each office and updated annually.

Resident Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

Transfer Policy

The Montgomery Housing Authority has two possible types of transfer: Emergency and Administrative.

- A. Emergency Transfers** are mandatory when the HA determines that a unit or building will pose an immediate threat to life, health or safety or to resolve life threatening issues including domestic violence. Emergency transfers do not require prior notice and take priority of new admissions.

If an emergency condition exists due to resident abuse or neglect which necessitate an emergency transfer, the resident will be charged for the damages and may be subject to eviction. Conversely, if a resident refuses to adhere to the emergency transfer, they will be subject to a lease termination and eviction.

The cost of the transfer will typically be covered by the HA unless the cause of the transfer is due to resident abuse or neglect.

- B. Administrative Transfers** are non-emergency in nature. Priorities 1 and 2 shall take precedence of new admissions in the following order of priority. Priority 3 will be addressed through a ratio which may change from time to time. For instance, the ratio may be 25:1 which means, for every 25 families moved-in from the public housing waiting list, one family from the Priority 3 waiting list will be transferred.

1. Priority 1: Mandatory administrative transfers to permit the HA to renovate, modernize, revitalize, demolish or dispose of public housing property. **The cost of the transfer will be covered by the HA.**
2. Priority 2: Voluntary administrative transfers to move residents with disabilities to an accessible dwelling unit. This also includes families who are occupying an accessible unit who do not need the features of the unit so that a family who needs the unit can occupy the accessible unit. **The cost of the transfer will be covered by the HA.**
3. Priority 3: Mandatory transfers to correct occupancy standards. **The cost of the transfer must be paid by the resident.**

Offers of transfers shall not discriminate on the basis of race, color, sex, sexual orientation, religion, national origin, disability or familial status. To assure equal opportunity and non discrimination, the HA will utilize “Plan A” or the one offer plan to make offers to transferees from the waiting list.

The first qualified transferee in the sequence on the waiting list is made one offer of an apartment of the appropriate size and type. The transferee must accept the offer or be removed from the waiting list unless the transferee refuses with good cause.

Administering the Transfer List:

1. Transferees will be selected in accordance with date and time of the transfer application.

2. Once a unit is identified, the resident will be notified by letter or telephone of an available unit.
3. If the resident does not accept the unit offer within 2 two working days, they will be removed from the list. A withdrawal letter will be sent.
4. Residents who are withdrawn from the waiting list, may submit a written request for a grievance hearing.

C. Good Cause for Refusal of Unit Offer:

1. Examples of (good cause) for refusal of a unit offer are:
 - The unit's location is inaccessible to source of employment, education, or job training, children's day care, or educational programs for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities;
 - The family demonstrates that accepting the offer will place a family member's life, health, or safety in jeopardy. The family must provide specific and compelling documentation such as restraining orders, other court orders, or risk assessments from a law enforcement agency. Reasons offered must be specific to the family. 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 or other household members (each as listed on final application);
 - The unit has lead paint and the family has children under the age of seven;
 - The unit is inappropriate for the family 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;
 - An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing.
2. If good cause is verified, the refusal of the offer shall not require that the applicant be dropped to the bottom of the waiting list or otherwise affect the family's position on the waiting list.

Resident Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

REPAYMENT AGREEMENT POLICY

It is the policy of the Housing Authority that we will not provide Rental Assistance or Public Housing to a family who has indebtedness to this Housing Authority until either the balance is paid in full or a Repayment Agreement has been executed.

As a general rule, **a minimum down-payment of One-Third of the balance is required at the time the Agreement is executed.** Monthly payment amount will be established after a review of all relevant family income information not to exceed 12 months. The applicant and/or tenant will remain in good standing with the Housing Authority as long as all payments are received in a prompt timely manner. Failure to abide by this Repayment Agreement will result in one of the following actions:

- A. Section 8 applicants and/or, Public Housing applicants will have their applications withdrawn until payment in full has been received.
- B. Public Housing tenants will have the unpaid balance turned over for collection of total unpaid balance, attorney fees and court costs.
- C. Section 8 tenants will have their rental assistance terminated, providing proper notice to the landlord, and the Housing Authority will pursue further legal remedy for remaining unpaid balance.

It should be noted that this Agreement will be in default when TWO (2) payments are delinquent. When the Repayment Agreement is in default, NO FUTURE REPAYMENT AGREEMENT WILL BE MADE WITH THE SAME FAMILY. ALL MONIES DUE IN FULL.

Resident Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

VANDALISM POLICY

If a tenants unit is damaged by vandalism, the tenant must report the damages to the City of Montgomery Police Department and the Police Officer must make a report of the damages. The Police Department must be called immediately after the damages are discovered by the tenant. The tenant must report the damage to the Office Manager the first business day after the damages occurred. After reporting the damages to the Manager he/she will then contact the Maintenance Department and place a work order for the repair of the damages. Note: If the damages were caused by an individual that is on the lease and/or a friend or guest, the Head of Household is responsible for the actual cost to repair the damages. Also, if the tenant does not report damages to the City of Montgomery Police Department, Office Manager and Maintenance Department as required in this policy, the Head of Household shall be responsible for the cost of the repairs made to the unit.

Children or adults are not allowed to draw, write, mark or sign any property of the Montgomery Housing Authority. Drawing or writing on the bricks, doors, columns, walls, stairs, counter tops, floors, sidewalks or streets, etc, are prohibited and subject to lease termination.

Also, if the resident files charges against the person that caused the damages and recovers any funds, the funds recovered must be paid to MHA within ten (10) days of receipt of the funds. This is required only when the MHA incurred the expenses of making the repairs.

Tenant Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

NOTICE THAT RESIDENT MAY “REQUEST A REASONABLE ACCOMMODATION FOR A DISABLED HOUSEHOLD MEMBER”

In compliance with Section XV of the Dwelling Lease.

“Accommodation of Persons with Disabilities”, you are notified that at anytime during your occupancy you may request a reasonable accommodation of the unit for a handicapped household member who needs an accommodation. This would include reasonable accommodations that would allow the resident to meet dwelling lease requirements or the other requirements of occupancy.

Your request must be submitted in writing to the Property Manager at your central office. The request must specify the type of accommodation needed and state the reason the accommodation is needed for the resident.

HEAD OF HOUSEHOLD

DATE

PHA REPRESENTATIVE

DATE



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

LOITERING POLICY

Loitering or lingering idly or aimlessly in any area of the Montgomery Housing Authority's (MHA) property is prohibited. Hanging around single, in clusters or crowds, engaging in disturbing noises or wandering aimlessly about MHA properties (especially on street corners, in the parking lots, on the side of buildings, on the play grounds, along the fence lines and in between buildings) are prohibited.

Residents or visitors are not allowed to hang-out on the side of buildings, on the street corners or in the parking lots. Residents are not allowed to have more than 4 people gathered on their front porch at any given time, without written permission from the management office.

Children are encouraged to play on the playgrounds with the supervision of their parent or an adult. Playing in the front yard destroys the landscaping and creates a safety risk of children running into passing traffic.

Residents are responsible for their guest inside or outside of the units. Unauthorized guest will be trespassed and asked to leave the property. Repeated unauthorized guest violators will be arrested. Repeated residents or resident's guest violators may be subject to lease termination.

PLEASE HELP KEEP OUR COMMUNITIES SAFE AND CLEAN!!!!

Resident Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

PARKING VIOLATION and TOWING VEHICLE POLICY

The Montgomery Housing Authority (MHA) is committed to providing decent, safe and sanitary housing. In order to do this we must keep our roads clear for emergency vehicles and maintain the area safe for our children and other residents. We are also committed to improving and preserving the landscaping throughout our public housing communities.

Parking Violation: All vehicles parked on MHA properties are required to be operable, safe and display a current tag. Vehicles with broken windows, flat tires, no/missing tires, missing doors, missing or raised hoods, missing or raised trunks, not drivable or unable to start will be served a citation to repair or remove the vehicle from the property within **48 hours** or it will be towed. If the vehicle move and return days later in the same condition it will be towed immediately. Vehicles parked in restricted/reserved areas will be fined **\$25.00**.

PARKING MOTOR VEHICLES IN THE FRONT/BACK YARD IS PROHIBITED... (City Ord. No. 15-2009, §§ 1-4, 4/7/2009)

Towing: Parking is allowed only in designated lots on Montgomery Housing Authority property. Vehicles found parked in the yards; on the grounds; on the curbs; on the sidewalks; or parked in reserved or no parking areas will be towed immediately at the owner expense during and after, office hours and on the weekends. Vehicles left **jacked-up**, sitting on bricks, blocks, boards etc. will be towed immediately at the owner's expense during and after, office hours and on the weekends.

Motor Cycles and Go-Carts are not allowed to be parked or driven inside the units, on the grounds, yards or sidewalks. All power/motor vehicles are required to be parked in the parking lot.

Accessible Scooters are allowed to be driven on the sidewalks and parked inside the unit.

Mechanic work prohibited: The MHA prohibits mechanic work on vehicles parked on MHA properties. The following is prohibited: changing oil, anti-freeze, transmission fluid or draining the carburetor. Removing/replacing motors, engines, brake work, carburetor, and axles.

Please help us keep the Public Housing Communities Clean!

This policy supersedes and replaces any previous policy of the housing authority in conflict with the terms of this policy.

Tenant Signature

Date

MHA Representative

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

Barbecue Grill Policy

Warm weather means it's time to fire up the grill. It is also a good time to learn about grilling safety. A barbecue grill is a device for cooking food by applying heat directly from below. There are several varieties of such grills, with most falling into one of two categories: gas-fueled and charcoal. This is not an exclusive list of grills. Below are some helpful tips to prevent the joy of grilling from turning into a tragedy.

Gas Barbecue grills, are not allowed on the property (no exceptions). The only allowable grill is a Charcoal Barbecue grill.

Guidelines for the use of Charcoal Grills:

Tenant owned barbecue grills are required to be kept in the backyard near the building.

All barbecue grills are required to be decent, clean, safe and stored charcoal free at all times.

Barbecue grills are **not allowed** inside the unit/apartment or on the front/back porch at anytime.

Never store or leave lighter fluid or flammable liquids near barbecue grill.

Do not leave a flaming fire unattended.

Never add lighter fluid on charcoals that are already lit, this may cause the fire to burn back to the can.

Only adults age 19 and older are allowed to use barbecue grills.

All barbecue grills must be operated in the back yard at least 10 feet from the building and 10 feet away from the passing public.

Tenants are **not allowed** to keep/store the following items inside the unit/apartment at any time: Lighter fluid, propane gas, propane tank, gasoline, gasoline container, charcoals, kerosene, party burners or any flammable liquids.

Procedures to dispose of hot charcoals:

- soak charcoals in cold water before placing them in a trash container
- place cold charcoals in a trash bag before placing them in the trash container
- never dump charcoals on the ground or sidewalks
- never dump loose charcoals in the trash container
- never dump hot charcoals in the trash container
- never leave hot charcoals in the barbecue grill (remove and soak in cold water)
- never leave hot charcoals unattended
- never store barbeque grill with charcoals inside.

Failure to comply with the above procedures will result in the loss of barbecue grilling privileges, a lease review and or lease termination notice.

I _____, acknowledges that I have read and understand this policy and that I have received a copy of this policy.

Tenant Signature

Date



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

Housekeeping and Maintenance Standards Policy

In an effort to maintain the livability and conditions of the apartments owned and managed by Montgomery Housing Authority, uniform standards for resident housekeeping have been developed for all resident families. The standards that follow will be applied fairly and uniformly to all residents. MHA will inspect each unit at least two times per year to determine compliance with the standards. Upon completion of an inspection, MHA will notify the resident in writing if he/she fails to comply with the standards. MHA will advise the resident of specific correction(s) required for compliance. Within a reasonable period of time, MHA will schedule a second inspection. Failure of a second inspection will constitute a violation of the lease terms.

The resident is to abide by the standards set forth below. Failure to abide by the Housekeeping Standards that result in the creation of infestation or a threat to health or safety, as determined under the sole discretion of MHA, is a violation of the Lease terms and can result in immediate Lease termination.

General

- Walls should be clean, free of excessive dirt, graffiti, grease, and holes.
- Floors should be clean, clear, dry and free of hazards.
- Ceilings should be clean.
- Windows should be intact, sills should be clean and not nailed shut.
- Shades and blinds should be intact and clean.
- Woodwork and baseboards should be clean, free of dirt, gouges, or scratches.
- Doors should be clean and free of grease, finger marks, graffiti and holes.
- Doorjambes should be intact. Doorstops should be present.
- Locks should work. Do not change or add locks without approval from management.
- Heating units should be uncluttered. Do NOT store anything near the furnace or water heater, nor any flammable items in the utility room, or chemicals.
- Trash should be disposed of properly and not left in the unit.
- Entire unit should be free of rodent or insect infestation.
- Entire unit should be free of clutter. Dirty laundry should be properly contained and stored and not scattered throughout the unit, nor stored on closet floors.
- Clothes dryers must be properly vented and be of the appropriate wattage.
- Heating and cooling vents should be unobstructed and free of dust and grease.
- Smoke detectors should be properly mounted and installed and in working condition.

Kitchen

- Stove should be clean and free of food and excessive grease build-up. Burners should be free of debris and burned on food.
- Ovens should be clean and free of burned on food.
- Refrigerator should be clean, with the door seals intact. Freezer door should close properly and the freezer has no more than one inch of ice.
- Cabinets should be clean and neat. Cabinet surfaces and countertop should be clean, free of grease and spilled food. Cabinets should not be overloaded. Storage under the sink should be limited to small or lightweight items to permit access for repairs.
- Exhaust fan should be free of heavy grease.
- Sink should be clean, free of grease and garbage.
- Food storage areas should be neat and clean without spilled food.
- Trash and garbage should be stored in a covered container both interior and exterior of the unit, until removed to the disposal area.



525 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104-4611
PHONE: (334)-206-7200 – FAX: (334)-206-7222 – WEBSITE: MHA TODAY.ORG

Bathroom

- Toilet and tank should be operable, clean and odor free
- Tub and shower should be clean, operable, and free of excessive mildew and mold. Where applicable, shower curtains should be in place, and of adequate length. Placed inside the tub walls when taking a shower to keep water within the tub and shower area.
- Lavatory (face bowl) should be free flowing, clean and uncluttered.
- Exhaust fans should be free of dust.
- Floors should be clean and dry.

Work Orders

- The residents are required to report to the management office all deficiencies with the unit or building immediately. Failure to report any accident or injury to pipes, toilets, drains, electric wires, equipment, or other property to the Landlord, and any other breakage or loss of any kind may result in lease termination.

Storage Areas

- Should be neat and clean.
- Neither flammable materials nor chemicals should be stored in storage area.
- Other storage areas should be clean, neat, uncluttered, and free of hazards.

Outside the Apartment

- Yards should be free of debris, trash, and abandoned cars.
- Exterior walls should be free of graffiti.
- Porches should be clean and free of hazards.
- All toys and personal property should be stored inside the apartment.
- Furniture not designed for outdoor use must be stored inside the apartment.
- Porches and T-walls must be clean and free of hazards.
- Steps should be clean and free of hazards
- Sidewalks should be clean and free of hazards
- Storm doors should be clean with glass and screens intact
- Window screens should be in place and undamaged.
- Hallways should be clean and free of hazards.
- Stairwells should be uncluttered.

The resident agrees that these Housekeeping and Maintenance Standards have been explained to him/her and are understood and further agrees to be bound by these provisions.

Head of Household

Date

MHA Representative

Date



SCHEDULE OF TENANT CHARGES

DESCRIPTION	LABOR CHARGE HOURLY	MATERIAL COST
Unstop Commode	\$20.00	
Replace Commode	\$20.00	\$30.60
Unstop Bathroom Sink	\$20.00	
Replace Bathroom Sink	\$20.00	\$52.43
Unstop Bathtub	\$20.00	
Re-glaze Bathtub	\$20.00	\$200.00
Unstop Kitchen Sink	\$20.00	
Replace Kitchen Sink	\$20.00	\$45.79
Unstop Washer Drain	ACTUAL	ACTUAL
Replace Toilet Seat	\$20.00	\$6.42 – 8.81
Replace Toilet Tank	\$20.00	\$39.46 & \$56.78
Replace Tissue Holder	\$20.00	\$0.50
Replace Stoppers	\$20.00	\$1.00
Replace Basket Strainer	\$20.00	\$1.00
Replace Shower Rod	\$20.00	\$21.55
Replace Medicine Cabinet	\$20.00	\$30.99
Water Removal	\$20.00	ACTUAL
Replace Passage Lock	\$20.00	\$6.33
Replace Privacy Lock	\$20.00	\$6.99
Change Front & Back Door Locks	1 st time \$26.60 2 nd time \$36.60 3 rd time \$36.00 4 th time \$46.00	Dead Bolt Lock \$85.13
Replace Door Weather Stripping	\$20.00	\$13.80
Replace Exterior Solid Core Door	\$20.00	\$100.00
Replace Interior Hollow Core Door	\$20.00	\$40.00
Replace Door Hinges	\$20.00	ACTUAL
Replace Door Panel	\$20.00	ACTUAL
Replace Door Frame	\$20.00	ACTUAL
Replace Screen Door	\$20.00	\$175.00
Replace Screen Door Closure	\$20.00	\$9.69
Replace Screen Door Panel	\$20.00	ACTUAL
Replace Screen Door Lock	\$20.00	\$5.34
Replace Screen Door Hinges	\$20.00	ACTUAL
Replace Window Screen	\$20.00	\$8.00 to \$13.00
Replace Window Pane	\$20.00	\$3.00 to \$8.00
Replace Window Frame	\$20.00	ACTUAL
Replace Window Balances	\$20.00	\$2.50 to \$7.23
Replace Window Lock/Latch	\$20.00	\$1.00 to \$15.00
Replace Range	\$20.00	\$369.00
Replace Oven Control	\$20.00	\$10.27
Replace Range Dial	\$20.00	\$10.27
Replace Oven Handle	\$20.00	ACTUAL
DESCRIPTION	Replace Oven Handle	MATERIAL COST



Replace Grate	\$20.00	ACTUAL
Replace Element	\$20.00	\$10.00 to \$25.00
Replace Range Hood	\$20.00	\$36.00
Replace Oven Door	\$20.00	ACTUAL
Install Closet Rod	\$20.00	\$7.00
Install Towel Rack	\$20.00	\$3.00
Install Soap Dish	\$20.00	\$7.50
Replace Cabinet Door Handle	\$20.00	\$2.00
Replace Cabinet Door	\$20.00	ACTUAL
Replace Cabinet Drawer	\$20.00	ACTUAL
Replace Counter Top	\$20.00	ACTUAL
Replace Refrigerator Door Handle	\$20.00	ACTUAL
Replace Garbage Can	\$20.00 used \$40.00 new	ACTUAL
Replace Smoke/CO Detector	\$100.00 (if tampered with by tenant)	\$29.95 smoke \$17.00 co
Replace Smoke/CO Detector Battery	none	\$1.50
Replace Refrigerator	\$20.00	\$350. to \$425.00
Clean Refrigerator	\$20.00	ACTUAL
Clean Stove	\$20.00	ACTUAL
Hot Water Heater Replacement	\$20.00	\$355.00
Parking Citation	\$25.00	
Trash & Litter Violation	\$25.00	
Removal of Pet Waste	\$25.00	
Locked Out of Apartment	1 st time No Charge 2 nd time \$10.00 3 rd time \$10.00 4 th time \$20.00	
Reconnect Appliances	\$20.00	
Re-light Gas (after disconnect)	\$20.00	
Paint Apartment	0 bedroom \$350.00 1 bedrooms \$500.00 2 bedrooms \$600.00 3bedrooms \$700.00 4 bedrooms \$800.00 5 bedrooms \$900.00 6 bedrooms \$1,000.00	

Labor will be charged per hour, 1 hour or less will be charged the standard rate for 1 hour (example: 30 minutes at \$20.00 = 1 hour rate of \$20.00). Additional hours will be charged using actual time worked (example: 2.5 hours at \$20.00 = \$50.00).



Smoke-Free Policy

- 1. Purpose of Smoke-Free Community:** The Montgomery Housing Authority (MHA) has been studying the harmful effects that secondhand smoke can cause to others, especially children and the elderly. MHA has decided to adopt a smoke-free policy for a number of reasons: Secondhand smoke is a health hazard, especially for children, the elderly and persons with chronic diseases. There is no safe level of exposure to secondhand smoke (Source: US Surgeon General, 2006). In addition, smoking materials are the leading cause of fire deaths in the United States. (Source: US Fire Administration/National Fire Data Center).
- 2. Definition of Smoking:** “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant.
- 3. Smoke-Free Complex:** Resident agrees and acknowledges that the premises to be occupied by Resident and members of Resident’s household have been designated as a smoke-free living environment. Resident and members of Resident’s household shall not smoke anywhere in the unit rented by Resident, in the building where the Resident’s dwelling is located or in any of the common areas (or adjoining grounds of such building or other parts of the rental community), nor shall Resident permit any guests or visitors under the control of Resident to do so.
- 4. Property Manager/Owner to Promote No Smoking Policy:** Property Manager/Owner shall post no smoking signs at entrances and exits, common areas and hallways (and in conspicuous places on the grounds adjoining the apartment complex).
- 5. Property Manager/Owner Not a Guarantor of Smoke Free Environment:** Resident acknowledges that Property Manager/Owner’s adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke free, do not make the Property Manager/Owner or any of its managing agents the guarantor of Resident’s health or of the smoke-free condition of the Resident’s unit and the common areas. However, Property Manager/Owner shall take reasonable steps to enforce the smoke-free terms of its Leases/House Rules and to make the (designated areas of the) complex smoke-free.

Property Manager/Owner is not required to take steps in response to smoking unless Property Manager/Owner knows of said smoking or has been given a report of said smoking.

- 6. Effect of Breach and Right to Terminate Lease:** A breach of this Addendum/House Rules shall give each party all the rights contained herein, as well as the rights provided for in the Lease. A material breach of this Addendum by the Resident shall be a material breach of the Lease and grounds for immediate termination of the Lease by the Property Manager/Owner.



Property Manager/Owner acknowledges that in declaring this building (or portion of the building) to be smoke-free, the failure to respond by Property Manager/Owner to a complaint filed by the Resident shall be treated as equivalent to failure to respond to a request for maintenance.

7. **Disclaimer by Property Manager/Owner:** Resident acknowledges that Property Manager/Owner's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, does not in any way change the standard of care that the Property Manager/Owner would have to a Resident household to render buildings and premises designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Property Manager/Owner specifically disclaims any implied or express warranties that the building, common areas, or Resident's premises will have any higher or improved air quality standards than any other rental property. Property Manager/Owner cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that Property Manager/Owner's ability to police, monitor, or enforce the agreements of the Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Property manager/Owner does not assume any higher duty of care to enforce this Lease Addendum/House Rules than any other Property manager/Owner obligation under the Lease.

Resident

Date

Property Manager/Owner

Date



USE OF COMMUNITY PROPERTY POLICY

The purpose of the Use of Community Property Policy is to protect the residents of public housing communities, from unsolicited events in their respective communities, which may pose a threat to their health and safety. This policy is also intended to prevent anyone from utilizing property, owned or managed by MHA, for political, unethical or illegal purposes.

The MHA has developed a Use of Community Property form (attached) to be completed and approved by anyone seeking to host/sponsor an event, on any property owned or managed by the MHA.

To facilitate a one-time event on any MHA's property, the agency or organization must contact the MHA's Director of Public Housing to inquire about the use of the facility. If the event meets MHA's approval, a Use of Community Property form will then need to be completed and submitted to the Director of Public Housing, along with proof of liability insurance and a letter from local law enforcement for crowd control, prior to final approval.

Residents are not allowed to grant permission for anyone to use any property, owned or managed by the MHA, unless the Use of Community Property form is completed and submitted, along with supporting proof of liability insurance and a letter from local law enforcement assuring crowd control, prior to final approval.

Resident Signature

Date

MHA Representative

Date