



# TENANT SELECTION PLAN

## NORTON APARTMENTS AT LAKE BELLEVUE

JANUARY 01, 2025

*Pinellas County Housing Authority*

**mma**  
Nan McKay  
AND ASSOCIATES, INC.

# Tenant Selection Plan (TSP)

NORTON APARTMENTS AT LAKE BELLEVUE

PINELLAS COUNTY HOUSING AUTHORITY

Approved by the HA Board of Commissioners:

Submitted to HUD:

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**TENANT SELECTION PLAN (TSP)**  
**FOR THE**  
**NORTON APARTMENTS AT LAKE BELLEVUE**

Product # 301-016

January 1, 2017

Revision Date	Revision Date
September 1, 2017	
September 1, 2019	
December 1, 2019	
October 1, 2020	
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## U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Housing Office of Public and Indian Housing

#### **BACKGROUND**

HOTMA was signed into law on July 29, 2016 (Public Law 114–201, 130 Stat. 782). The HOTMA statute consists of 14 sections of law that affect the Public Housing and Section 8 rental assistance programs. On September 17, 2019, HUD issued a proposed rule to update its regulations according to HOTMA’s statutory mandate. The proposed rule may be found at 84 FR 48820 (September 17, 2019).

Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews. Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs. Section 104 sets maximum asset limits for Public Housing and Section 8 applicants and participants.

#### **EFFECTIVE DATE, COMPLIANCE, AND UPDATES TO PHA/MFH OWNER POLICIES**

The final rule’s effective date is January 1, 2024. HUD recognizes, however, that HOTMA includes significant program and systems changes and that PHAs/MFH Owners and families need time to understand the changes and implement them. HUD understands that the system development timeframes for the Housing Information Portal (HIP) and Tenant Rental Assistance Certification System (TRACS) make full implementation and compliance with the final rule by the January 1, 2024, deadline unlikely. Additionally, because these HOTMA changes apply to all current participants and new admissions, implementation of the HOTMA final rule cannot be achieved immediately on a universal basis but rather is an ongoing process that will happen over the course of a year as routine program activities occur.

#### **Compliance Date and Required Actions for MFH Owners (Office of Multifamily Housing)**

By May 31, 2024:

- By May 31, 2024, MFH Owners must update their Tenant Selection Plans and EIV policies and procedures to reflect HOTMA rules and discretionary policies.
- MFH Owners must make the revised Tenant Selection Plan publicly available.

Note: **MFH Owners must continue to follow their existing Tenant Selection Plans and EIV policies & procedures until the MFH Owner’s software is compliant with TRACS 203A.**

**By January 1, 2025:**

**Full compliance with the HOTMA final rule is mandatory effective January 1, 2025.**

#### PCHA Policy

The PCHA will implement HOTMA regulations effective January 1, 2025 (or any later compliance date issued by HUD).

Disclaimer:

The information contained in this document is sourced from HUD Notice H 2023-10. While every effort has been made to ensure accuracy, this document is not an official publication of HUD (U.S. Department of Housing and Urban Development). Readers are advised to refer to the original notice or consult with HUD directly for authoritative guidance.

**Norton Apartments at Lake Bellevue  
Tenant Selection Plan  
Table of Contents**

**Introduction  
ABOUT THE TENANT SELECTION PLAN (TSP)**

OVERVIEW .....	Intro-i
RIGHT TO APPLY AND REFERRALS FROM PUBLIC HOUSING AUTHORITIES .....	Intro-i
REFERENCES CITED IN THE MODEL TSP .....	Intro-i
HUD .....	Intro-i
State Law .....	Intro-i
Industry Practice .....	Intro-i
Resources and Where to Find Them .....	Intro-ii

**Chapter 1  
NONDISCRIMINATION**

1-A. OVERVIEW .....	1-1
1-B. NONDISCRIMINATION.....	1-2
1-C. POLICIES RELATED TO PERSONS WITH DISABILITIES .....	1-3
1-D. REASONABLE ACCOMODATION .....	1-3
1-E. REQUEST FOR AN ACCOMMODATION.....	1-3
1-F. VERIFICATION OF DISABILITY .....	1-4
1-G. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act] .....	1-5
1-H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6].....	1-6

**Norton Apartments at Lake Bellevue  
Tenant Selection Plan  
Table of Contents**

**Chapter 2  
THE APPLICATION PROCESS**

2-A.	USE OF ELECTRONIC SIGNATURES [Notice H 2020-04].....	2-1
2-B.	TRANSMISSION OF FORMS, NOTICES, AND DOCUMENTS [Notice H 2020-04].....	2-1
	Acknowledgement of Receipt.....	2-3
	Effective Communication to Persons with Disabilities [24 CFR 8.6; 28 CFR 35.160; 28 CFR 36.303].....	2-3
	Effective Communication to Limited English Proficient (LEP) Individuals [Executive Order 13166].....	2-3
2-C.	MARKETING.....	2-4
2-D.	APPLYING FOR ASSISTANCE [24 CFR 880.603(a); HUD Handbook 4350.3, REV-1, CHG-4, Section 4-14] .....	2-4
2-E.	ACCESSIBILITY OF THE APPLICATION PROCESS.....	2-5

**Chapter 3  
WAITING LIST PROCEDURES**

3-A.	ORGANIZATION OF THE WAITING LIST .....	3-1
3-B.	PLACEMENT ON THE WAITING LIST .....	3-1
	Ineligible for Placement on the Waiting List.....	3-2
	Eligible for Placement on the Waiting List.....	3-2
3-C.	PREFERENCES [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-6; 24 CFR 5.655(c); Notice H 2013-21] .....	3-3
3-D.	INCOME TARGETING REQUIREMENT [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-25].....	3-4
3-E.	OPENING AND CLOSING THE WAITING LIST .....	3-4
3-F.	FAMILY OUTREACH .....	3-5
3-G.	UPDATING THE WAITING LIST [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-18].....	3-5
	Purging the Waiting List.....	3-6
3-H.	SELECTION FROM THE WAITING LIST.....	3-7
3-I.	APPLICANT INTERVIEW [HUD Handbook 4350.3, REV-1, CHG-4, Section 4 24] .....	3-7
3-J.	FINAL ELIGIBILITY DETERMINATION .....	3-9

**Norton Apartments at Lake Bellevue  
Tenant Selection Plan  
Table of Contents**

**Chapter 4  
PROJECT ELIGIBILITY**

4-A.	PROJECT-SPECIFIC REQUIREMENTS [HUD Handbook 4350.3, REV-1, CHG-4, Chapter 3, Section 2] .....	4-1
4-B.	INCOME ELIGIBILITY [24 CFR 5.653; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-6, Figure 3-3] .....	4-1
	Income Limits .....	4-1
	Types of Low-Income Families .....	4-1
	Using Income Limits for Eligibility.....	4-2
	Maximum Income.....	4-2
4-C.	OCCUPANCY STANDARDS [HUD Handbook 4350.3, REV-1, CHG-4, Section 3 23] .....	4-2
4-D.	EXCEPTIONS TO OCCUPANCY STANDARDS .....	4-4
	Types of Exceptions.....	4-4
	Processing of Exceptions .....	4-4

**Chapter 5  
PROGRAM ELIGIBILITY**

5-A.	CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [HUD Handbook 4350.3, REV-1, CHG-4, Section 3-12; 24 CFR 5, Subpart E] .....	5-1
	Declaration [24 CFR 5.508].....	5-1
	U.S. Citizens and Nationals .....	5-2
	Eligible Immigrants .....	5-2
	Ineligible Noncitizens .....	5-2
	Mixed Families .....	5-3
	Timeframe for Determination of Citizenship Status for New Occupants.....	5-3
5-B.	SOCIAL SECURITY NUMBERS [24 CFR 5.216; Notice 2023-10].....	5-4
5-C.	STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612; FR Notice 4/10/06; FR Notice 9/21/16; HUD Handbook 4350.3, REV-1, CHG 4, Section 3 13] .....	5-5
5-D.	FAMILY CONSENT TO RELEASE OF INFORMATION [HUD Handbook 4350.3, REV-1, CHG-4, Section 5-12; Notice H 2023-10].....	5-7



**Norton Apartments at Lake Bellevue  
Tenant Selection Plan  
Table of Contents**

**Chapter 6  
SCREENING CRITERIA**

6-A.	OVERVIEW .....	6-1
6-B.	REQUIRED DENIAL OF ADMISSION [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-7; 24 CFR Part 5, Subpart I] .....	6-2
6-C.	ASSET LIMITATION [24 CFR 5.618] .....	6-5
6-D.	ASSET LIMITATION FOR RESIDENTS AT ANNUAL REEXAMINATION.....	6-7
6-E.	OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION.....	6-8
6-F.	CONSIDERATION OF CIRCUMSTANCES .....	6-10
	Removal of a Family Member’s Name from the Application .....	6-12
	Reasonable Accommodation .....	6-12
6-G.	CREDIT HISTORY .....	6-13
6-H.	RENTAL HISTORY .....	6-14
6-I.	EXISTING TENANT SEARCH .....	6-15
6-J.	MISREPRESENTATION OF INFORMATION .....	6-15

**Chapter 7  
UNIT OFFER AND TRANSFER POLICY**

7-A.	NUMBER OF OFFERS.....	7-1
7-B.	TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL .....	7-1
7-C.	REFUSALS OF UNIT OFFERS .....	7-1
	Good Cause for Unit Refusal.....	7-1
	Unit Refusal Without Good Cause .....	7-2
7-D.	ACCESSIBLE UNITS.....	7-3
7-E.	TRANSFER REQUESTS.....	7-3
7-F.	TYPES OF TRANSFERS.....	7-5
	Emergency Transfers .....	7-5
	Uninhabitable Unit.....	7-5
	Violence Against Women Act (VAWA) .....	7-5
	PCHA-Required Transfers.....	7-6
	Transfers to Make an Accessible Unit Available .....	7-6
	Occupancy Standards Transfers.....	7-6
	Transfers for Medical Reasons .....	7-6
	Transfers for Demolition, Disposition, Revitalization, or Rehabilitation.....	7-6
	RAD Requirements.....	7-7

**Norton Apartments at Lake Bellevue  
 Tenant Selection Plan  
 Table of Contents**

Transfers Requested by Residents ..... 7-7  
 7-G. TRANSFER LIST ..... 7-7

**Chapter 8  
 THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

8-A. OVERVIEW ..... 8-1  
 8-B. DEFINITIONS [24 CFR 5.2003] ..... 8-1  
 8-C. NOTIFICATION [24 CFR 5.2005(a)]..... 8-3  
     Notification to Public..... 8-3  
     Notification to Applicants and Tenants [24 CFR 5.2005(a)]..... 8-4  
 8-D. VAWA COMPLAINT PROCESSING [Notice FHEO 2023-01] ..... 8-5  
 8-E. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY ..... 8-6  
     Family Breakup..... 8-6  
 8-F. DOCUMENTATION [24 CFR 5.2007] ..... 8-7  
     Conflicting Documentation [24 CFR 5.2007(b)(2)] ..... 8-9  
     Discretion to Require No Formal Documentation [24 CFR 5.2007(b)(1)(iv)]..... 8-9  
     Failure to Provide Documentation [24 CFR 5.2007(a)(2)]..... 8-10  
 8-G. CONFIDENTIALITY [24 CFR 5.2007(c)]..... 8-10

**EXHIBITS**

8-1: PCHA Emergency Transfer Plan, Form HUD-5381 ..... 8-11  
 8-2: PCHA Notice Of Occupancy Rights Under The Violence Against  
 Women Act, Form HUD-5380 ..... 8-18  
 8-3: Certification Of Domestic Violence, Dating Violence, Sexual Assault,  
 Or Stalking And Alternate Documentation, Form HUD-5382..... 8-26  
 8-4: Emergency Transfer Request for Certain Victims of Domestic Violence,  
 Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 ..... 8-29

**Norton Apartments at Lake Bellevue  
 Tenant Selection Plan  
 Table of Contents**

**Chapter 9  
 PROVISIONS REQUIRED UNDER HOTMA**

9-A.	OVERVIEW .....	9-1
9-B.	DE MINIMIS ERRORS [24 CFR 5.609(c)(4); Notice H 2023-10] .....	9-1
9-C.	ADJUSTED INCOME.....	9-3
	Overview.....	9-3
	Anticipating Expenses .....	9-3
9-D.	DEPENDENT DEDUCTION.....	9-4
9-E.	ELDERLY OR DISABLED FAMILY DEDUCTION .....	9-4
9-F.	HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)].....	9-5
	Definition of Medical Expenses.....	9-5
	Families That Qualify for Both Health and Medical and Disability Assistance Expenses .....	9-5
9-G.	DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)].....	9-6
	Earned Income Limit on the Disability Assistance Expense Deduction .....	9-6
	Eligible Auxiliary Apparatus [Notice PIH 2023-27] .....	9-6
	Eligible Attendant Care [Notice PIH 2023-27] .....	9-7
	Payments to Family Members .....	9-7
	Necessary and Reasonable Expenses.....	9-7
	Families That Qualify for Both Health and Medical and Disability Assistance Expenses .....	9-8
9-H.	CHILD CARE EXPENSE DEDUCTION.....	9-8
	Clarifying the Meaning of <i>Child</i> for This Deduction .....	9-8
	Qualifying for the Deduction .....	9-8
	Determining Who Is Enabled to Pursue an Eligible Activity .....	9-8
	Seeking Work.....	9-9
	Furthering Education .....	9-9
	Being Gainfully Employed .....	9-9
	Earned Income Limit on Child Care Expense Deduction.....	9-9
	Eligible Child Care Expenses .....	9-10
	Allowable Child Care Activities.....	9-10
	Necessary and Reasonable Costs .....	9-10

**Norton Apartments at Lake Bellevue  
 Tenant Selection Plan  
 Table of Contents**

9-I.	HARDSHIP EXEMPTIONS FOR HEALTH AND MEDICAL CARE AND REASONABLE ATTENDENT CARE AND AUXILLIARY APPARATUS EXPENSES [24 CFR 5.611(c); Notice H 2023-10]	9-11
	Phased-In Relief	9-11
	General Relief	9-13
9-J.	CHILD CARE EXPENSE HARDSHIP EXEMPTION [24 CFR 5.611(d) and Notice H 2023-10]	9-16
9-K.	SELF-CERTIFICATION OF CERTAIN ASSETS	9-18
	Net Family Assets [24 CFR 5.603]	9-18
	Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]	9-20
9-L.	INTERIM RECERTIFICATIONS	9-21
	Interim Decreases [24 CFR 982.516(c)(2) and Notice H 2023-10]	9-21
	Interim Increases [24 CFR 982.516(c)(3) and Notice H 2023-10]	9-22
	Family Reporting	9-23
	Changes Reported Timely	9-24
	Changes Not Reported Timely	9-24
9-M.	USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice H 2023-10]	9-26
9-N.	STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c) and Notice H 2023-10]	9-30
9-O.	VERIFICATION HIERARCHY [Notice PIH 2023-27]	9-32
	File Documentation	9-32
9-P.	LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)	9-33
	Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)	9-33
	EIV Income and Income Discrepancy Reports	9-33
	New Hires Report [Notice PIH 2023-27]	9-34
	No Income Reported by HHS or SSA Report	9-36
	EIV Identity Verification Report	9-36
	Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]	9-36
	Other EIV Reports [Notice PIH 2023-27]	9-37
	Upfront Income Verification Using Non-HUD Systems	9-37
9-Q.	LEVEL 4 VERIFICATION [Notice PIH 2023-27]	9-38
	EIV + Self-Certification	9-38
	Written Third-Party Verification from the Source	9-38
9-R.	LEVEL 3 VERIFICATION: WRITTEN, 3rd-PARTY FORM [Notice PIH 2023 -27]	9-40
9-S.	LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]	9-40
	When Third-Party Verification is Not Required [Notice PIH 2023-27]	9-41
	Primary Documents	9-41

**Norton Apartments at Lake Bellevue  
Tenant Selection Plan  
Table of Contents**

9-T.	LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27] .....	9-41
9-U.	EARNED INCOME.....	9-42
	Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27] .....	9-42
9-V.	ZERO INCOME REVIEWS [Notice H 2023-10].....	9-43
9-W.	INCOME FROM EXCLUDED SOURCES [Notice H 2023-10] .....	9-44
9-X.	STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)].....	9-45
	Exhibit 9-1: Annual Income Full Definition.....	9-46
	Exhibit 9-2: Treatment of Family Assets.....	9-51

## **Introduction**

### **ABOUT THE TENANT SELECTION PLAN (TSP)**

#### **OVERVIEW**

The objective of the Tenant Selection Plan is to consolidate relevant policies and procedures affecting the selection of tenants for subsidized units.

The Plan is designed to promote fairness and uniformity in the selection of tenants for subsidized units, and to promote efficiency in the application process for subsidized units.

#### **RIGHT TO APPLY AND REFERRALS FROM PUBLIC HOUSING AUTHORITIES**

No person may be refused the right to apply for housing unless the Development's waiting list is closed for a particular unit size or type, and notice of the closed waiting list, with Pinellas County Housing Authority's (PCHA) phone number, TDD number, fax number and email address, has been posted in a prominent, accessible location.

#### **REFERENCES CITED IN THE TSP**

Authority for the PCHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PCHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PCHA policy.

#### **HUD**

HUD provides the primary source of PCHA policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and HUD handbooks is mandatory.

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

#### **State Law**

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

#### **Industry Practice**

Where no law or HUD authority exists on a particular subject, industry practice may support PCHA policy. An industry practice is a way of doing things that is followed by most Multifamily properties.

#### **Resources and Where to Find Them**

Following is a list of resources helpful to the PCHA or referenced in the TSP, and the online location of each.

<b>Document and Location</b>
The HUD website is <a href="http://portal.hud.gov/hudportal/HUD">http://portal.hud.gov/hudportal/HUD</a>
Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips">http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips</a>
Code of Federal Regulations <a href="http://www.ecfr.gov">http://www.ecfr.gov</a>
Federal Register <a href="http://www.gpo.gov/fdsys/search/getftoc.action">http://www.gpo.gov/fdsys/search/getftoc.action</a>
HUD Handbook 4350.3, REV-1, Occupancy Requirements of Subsidized Multifamily Housing Programs <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4350.3">http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4350.3</a>
Housing (H) Notices <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg">http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg</a>
Multifamily HOTMA resources page <a href="https://www.hud.gov/program_offices/housing/mfh/hotma">https://www.hud.gov/program_offices/housing/mfh/hotma</a>
HOTMA Final Rule <a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a>
HOTMA Implementation Notice, H 2023-10 <a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a>
RAD Notice Revision 4 (H 2019-09/PIH 2019-23) <a href="https://www.hud.gov/sites/dfiles/Housing/documents/H-2019-09-PIH-2019-23_RAD_Notice%20Rev4_20190905">https://www.hud.gov/sites/dfiles/Housing/documents/H-2019-09-PIH-2019-23_RAD_Notice%20Rev4_20190905</a>
RAD Supplemental Notice 4b <a href="https://www.hud.gov/sites/dfiles/Housing/documents/RADSupplementalNotice4B%20FINAL.pdf">https://www.hud.gov/sites/dfiles/Housing/documents/RADSupplementalNotice4B%20FINAL.pdf</a>
RAD Quick Reference Guide for to Multifamily Housing Requirements (11/23) <a href="https://www.radresource.net/output.cfm?id=pbraquick&amp;utm_campaign=PIH%20Alerts&amp;utm_medium=email&amp;hsmi=282086431&amp;hsenc=p2ANqtz--9yzAmA_JkwnVjUy2tZ73vCe6oTiyIap19Hf7QZzIz9kg43zrEj0Xc6D-4chV-epQ1y3_AM8HjIReOREgiMCDHZyShzA&amp;utm_content=282086431&amp;utm_source=hs_email">https://www.radresource.net/output.cfm?id=pbraquick&amp;utm_campaign=PIH%20Alerts&amp;utm_medium=email&amp;hsmi=282086431&amp;hsenc=p2ANqtz--9yzAmA_JkwnVjUy2tZ73vCe6oTiyIap19Hf7QZzIz9kg43zrEj0Xc6D-4chV-epQ1y3_AM8HjIReOREgiMCDHZyShzA&amp;utm_content=282086431&amp;utm_source=hs_email</a>

RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)

[http://portal.hud.gov/hudportal/documents/huddoc?id=RAD\\_WelcomeGui\\_1stComp.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=RAD_WelcomeGui_1stComp.pdf)

RAD FAQs

<http://www.radresource.net/search.cfm>

VAWA Resources

<https://www.hud.gov/vawa>

Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004

[https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf)



## Chapter 1

### NONDISCRIMINATION

#### 1-A. OVERVIEW

Federal laws require O/As to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The O/A 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)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012
- The Violence against Women Act (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.

#### PCHA Policy

The following state and local nondiscrimination laws or ordinances apply:

- Florida Statue Title XLIV Civil Rights/Chapter 760 Discrimination in the Treatment of Persons; Minority Representation/ Part II Fair Housing Act/ Sections 760.20 – 760.3\*
- Pinellas County, Florida -Code of Ordinances/ Chapter 70 Human Relations/Article II. Discrimination
- Department of Justice/ Americans with Disabilities Act Title III Regulations/ 28 CFR Part 36

## **1-B. NONDISCRIMINATION**

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

The O/A 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.

The O/A will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988].

### PCHA Policy

The PCHA does not identify any additional protected classes.

The O/A 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 program
- 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
- 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

## **1-C. POLICIES RELATED TO PERSONS WITH DISABILITIES**

The O/A must ensure that persons with disabilities have full access to the O/A's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the PBRA program [24 CFR Part 8].

### PCHA Policy

The PCHA will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the PCHA, 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 PCHA.”

A specific position and phone number will be provided as the contact person for requests for accommodation for persons with disabilities.

## **1-D. 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].

## **1-E. REQUEST FOR AN ACCOMMODATION**

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

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

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

### PCHA Policy

The PCHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PCHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. An oral request for a reasonable accommodation made by the family to the PCHA will be accepted initially to start the interactive process. Additional information may be requested depending upon the nature of the request.

## 1-F. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities can be found at 24 CFR Parts 8.3 and 100.201. The definition of a *person with a disability* for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of *disability*, which is used for waiting list preferences and income allowances.

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

If a person's disability is obvious or otherwise known to the O/A, 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 the O/A, the O/A must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The O/A must request only information that is necessary to evaluate the disability-related need for the accommodation. The O/A may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

## **1-G. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]**

The O/A must approve a request for an accommodation if the following three conditions are met:

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

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of the O/A's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

### PCHA Policy

After a request for an accommodation is presented, the PCHA will respond, in writing, within 10 business days.

If the PCHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the PCHA's decision.

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

If the PCHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PCHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the PCHA's decision.

## **1-H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6]**

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

### PCHA Policy

At the initial point of contact with each applicant, the PCHA 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 PCHA 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.

## Chapter 2

### THE APPLICATION PROCESS

#### 2-A. USE OF ELECTRONIC SIGNATURES [Notice H 2020-04]

HUD allows but does not require O/As to use electronic signatures (e-signatures) in compliance with Notice H 2020-04 and federal, state, and local laws. Owners adopting policies on the use of electronic signatures must provide applicants and tenants the option use “wet” signatures (i.e., original signatures) and paper documents upon request.

##### PCHA Policy

The PCHA will accept and use electronic signatures (e-signatures) during the application process, the leasing process, and the annual and interim recertification process, as described in this section and in compliance with Notice H 2020-04 and any applicable federal, state, and local laws.

In lieu of electronic signatures, tenants have the option to sign any required documents or forms on paper with a “wet” signature if they so request.

References to original signatures throughout this policy may be interpreted and implemented through electronic means.

PCHA will ensure appropriate data security for both the record being signed and the signature.

Acceptable methods of electronic signature include:

- Documents signed in PCHA’s software known as Yardi
- A digitized image of a handwritten signature
- A digital signature (e.g., Adobe DocuSign)

#### 2-B. TRANSMISSION OF FORMS, NOTICES, AND DOCUMENTS [Notice H 2020-04]

HUD allows but does not require O/As to communicate electronically with applicants and tenants and/or provide documents and notices electronically when state and local law permits and in accordance with Notice H 2020-04.

If the O/A chooses to use electronic communication procedures, applicants and tenants may also choose to communicate electronically with the O/A provided their choice is made affirmatively—not assumed with an opt-out procedure. The O/A may designate specific methods as acceptable for electronic transmissions from applicants and tenants.

When state and local law permits, the O/A may also provide documents and notices electronically or make such documents available in electronic format. However, when HUD regulations or notices or state or local law require notices to tenants be sent by first class mail, delivered directly to tenants or their units, or be posted in public spaces, electronic communication does not satisfy this requirement.

Applicants and tenants must have the opportunity to provide their information and documents in paper copy and to receive documents in paper form, including both before they have provided

any information or documents electronically or after they have done so and wish to discontinue doing so. If an O/A chooses to provide documents electronically, the O/A should inform applicants or tenants of their option to receive such documents in paper form.

### PCHA Policy

In compliance with federal, state, and local laws and HUD regulations, the PCHA will securely, electronically transmit HUD-approved and required documents when feasible throughout the application, move-in, and annual and interim recertification process. Tenant and applicants may request paper copies of such documents and may provide information in paper form at any time.

The PCHA will inform applicants of their ability to communicate electronically with the PCHA and/or receive paper copies of documents via the application.

The following methods are acceptable for electronic submission of documents:

- Applicants or tenants may complete documents online or by hand and then scan them to the owner.
- Applicants or tenants may submit information and documents using online systems, portals, tablet or smartphone apps, email, or other electronic media.

When a tenant is provided a notice in paper form, the PCHA will scan and store an electronic file of the tenant notification in the tenant's file.

When transmitting documents electronically, including Enterprise Income Verification (EIV) system data, PCHA will use National Institute of Standards and Technology (NIST) compliant methods. Examples include putting the documents inside an encrypted wrapper, such as a password protected DOC, PDF, or ZIP file.

Passwords will not be included in the same transmission as the documents. As a best practice, the PCHA will provide the recipient with the password by calling, texting, or sending in a separate email.

All documents containing or conveying personally identifiable information must be encrypted or transmitted in a secure manner in order to safeguard this information. HUD strongly recommends using an encrypted transfer mechanism such as a shared link with an encrypted cloud storage service, an encrypted mail service, or web-encrypted transfer tools.



## **Acknowledgement of Receipt**

If required notices, forms, and brochures are distributed electronically, HUD recommends that O/A request an electronic acknowledgement of receipt. Where HUD does not specifically require applicant or tenant acknowledgement of receipt, the O/A should nonetheless maintain records showing that they provided applicants or tenants with the electronic file or the electronic address used to access the document.

### PCHA Policy

Where HUD requires an acknowledgement of receipt for certain documents or forms and the PCHA has adopted a policy for electronic documents, the PCHA will request an electronic acknowledgement of receipt from the applicant or tenant. For documents provided electronically that do not require an acknowledgement of receipt, the PCHA will maintain records showing they provided information electronically.

## **Effective Communication to Persons with Disabilities [24 CFR 8.6; 28 CFR 35.160; 28 CFR 36.303]**

The owner must ensure effective communication with persons with disabilities by ensuring that all notices and communications provided electronically are consistent with applicable fair housing laws and regulations and that electronic communications do not impose any barriers in accessing information, programs, and activities by persons with disabilities.

The owner must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible websites and other electronic communications). In the event that a person with a disability is unable to use an electronic system or file that meets federal accessibility standards, the O/A must provide reasonable accommodations to afford users an equal opportunity to participate (e.g., in completing and signing documents or submitting documents in paper copy).

## **Effective Communication to Limited English Proficient (LEP) Individuals [Executive Order 13166]**

The owner is responsible for ensuring effective communication of electronic media includes reasonable steps taken to ensure meaningful access for persons with Limited English Proficiency (LEP) across technological platforms. Such formats may include, but are not limited to, multilingual websites and other electronic media.

## **2-C. MARKETING**

The O/A will market available units in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan (Form HUD-935.2A) in order to reach those who are least likely to apply and to attract a broad cross-section of the eligible population without regard to race, color, religion, sex, disability, familial status, gender identity, or national origin.

## **2-D. APPLYING FOR ASSISTANCE [24 CFR 880.603(a); HUD Handbook 4350.3, REV-1, CHG-4, Section 4-14]**

Any family that wishes to reside at the property must apply for admission to the program. Applications must be signed by both the O/A and the applicant. HUD permits the O/A to determine the format and content of the application, as well how such applications will be made available to interested families and how applications will be accepted by the O/A. However, the O/A must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the application.

### PCHA Policy

When accepting applications, the PCHA will use a two-step application process.. Under the two-step application process, the PCHA 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 on a pre-application form (step one). The PCHA will request complete information when the family is selected from the waiting list (step two). The application will require the family 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.

Pre- applications are only available when the waiting list is open. Families may obtain pre-application forms from the Norton Apartments leasing office during normal business hours, PCHA's central office, or complete an electronic application on PCHA's website. Families may also request a reasonable accommodation—by telephone or by mail— for a pre-application form to be sent to the family via first class mail.

Completed pre-applications must be returned to the Norton Leasing Office or PCHA central office by mail, electronically, fax, or submitted in person during normal business hours. Pre-applications must be filled out completely in order to be accepted by the PCHA for processing. If a pre-application is incomplete, the PCHA will notify the family of the additional information required.

Completed pre-applications will be dated, time-stamped upon receipt, and referred to the Norton Apartments Leasing office where resident selection and assignment is processed.

If the applicant is visually impaired, or has limited English proficiency (LEP), all notices will be made available in a format understandable by the applicant.

All adult applicants will be given the opportunity to complete Form HUD-92006, Supplement to Application for Federally Assisted Housing, at the time of application. Tenants who were not provided the opportunity to provide contact information at the time of application and admission will have the option to complete form HUD-92006 and provide contact information at the time of their next annual reexamination/recertification.

## **2-E. ACCESSIBILITY OF THE APPLICATION PROCESS**

The O/A must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard O/A application process.

The O/A must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible, or the O/A must provide an alternate approach that provides equal access to the program.

## Chapter 3

### WAITING LIST PROCEDURES

The PCHA has 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.

#### 3-A. ORGANIZATION OF THE WAITING LIST

##### PCHA Policy

The PCHA housing waiting list is organized in such a manner to allow the PCHA to accurately identify and select families in the proper order according to the admissions policies. 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
- Admission preferences (working families, or disabled head of household)
- Race and ethnicity of the head of household
- HUD Income Level:
  - *Low-income family*. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
  - *Very low-income family*. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
  - *Extremely low-income family*. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

#### 3-B. PLACEMENT ON THE WAITING LIST

The O/A must review each completed application received and make a preliminary assessment of the family's eligibility. Areas to be reviewed include requirements for income, household size/composition, student status, special status requirements such as age or disability status if needed, and criminal history. Applicants for whom the waiting list is open must be placed on the waiting list unless the O/A determines the family is ineligible.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the O/A will verify any preferences claimed, if applicable, and determine eligibility and suitability for admission to the program.

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**

#### PCHA Policy

If the PCHA determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, the PCHA will send written notification of the ineligibility determination within 10 business days of receipt of the completed application.

The ineligibility notice will be sent to the family's address of record.

The written notice will specify the reasons for ineligibility, and will inform the family of its right to respond to the owner in writing or request a meeting within 14 days to dispute the rejection. The notice will state that applicants who are persons with disabilities have the right to request a reasonable accommodation. The ineligibility notice shall be retained in the applicant's file.

The PCHA will remove applicants from the waiting list if they have requested that their name be removed. In such cases no informal review is required.

### **Eligible for Placement on the Waiting List**

#### PCHA Policy

The PCHA will work with the assumption that the facts certified by the applicant in the preliminary application are correct, although all those facts will be subject to verification later in the application process. The PCHA will send written notification of the preliminary eligibility determination within 10 business days of receiving a completed application. The written notification of the eligibility determination shall be retained in the applicant's file.

The PCHA will simply notify the family of their apparent eligibility without providing any further information regarding preference status, "place" on the waiting list, or approximate wait time.

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.

The PCHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards. Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy standards as long as the unit is not overcrowded according to PCHA standards and local codes. However, in these cases, the family must agree not to request a transfer unless they have a change in family size or composition.

**3-C. PREFERENCES [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-6;  
24 CFR 5.655(c); Notice H 2013-21]**

O/As must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the O/A will use, if any. O/As are permitted, but not required to, establish local preferences as long as they are subordinate to any program-specific preferences. Preferences do not guarantee admission. O/As must inform all applicants about any available preferences and give all applicants the opportunity to show they qualify for available preferences. While HUD rules currently include four types of preferences, Section 8 properties may only implement owner-adopted preferences or state and local preferences. HUD approval is required for any state, local, or residency preferences. Owners may implement owner-adopted preferences outside of those cited in the regulations, such as a preference for homeless families [Notice H 2013-21]. If a homeless preference is adopted, it must be included in this TSP, which must then be submitted to HUD for approval.

PCHA Policy

The PCHA has adopted the following preferences [24 CFR 960.206 (b)(2)]:

**Working Families:** In order to bring current Pinellas County families with higher income into Norton Apartments, the PCHA shall establish a preference for “working” families, where the head, spouse, or sole member is employed at least 30 hours per week within Pinellas County. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities, currently residing in Pinellas County will be given the benefit of the working preference.

**Disabled and/or Elderly Families:** Families where the head and spouse, 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 PCHA will utilize one of the two following systems for placing eligible families on the waiting list.

**Option 1:** Applicants will be placed on the waiting list according to PCHA preferences and the date and time their complete application is received by the PCHA.

**OR**

**Option 2:** Applicants will be placed on the waiting list according to PCHA preferences and a random selection process. Once each application has been randomly selected by the PCHA’s software, the applications will be placed on the waiting list in order of date and time within their respective preference categories.

**The PCHA is currently utilizing option one (1).**

### **3-D. INCOME TARGETING REQUIREMENT [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-25]**

HUD requires O/As with Section 8 units to ensure that during a fiscal year at least 40 percent of the dwelling units assisted under the contract that become available, together with initial certification of in-place families (with the exception of in-place residents at the time of a RAD conversion), be extremely low-income (ELI) families. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [FR notice 6/25/14]. To ensure this requirement is met, the O/A may skip non-ELI families on the waiting list in order to select an ELI family.

Current households in properties converting to PBRA under RAD are not subject to income targeting provisions at the time of conversion.

#### PCHA Policy

The PCHA 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.

### **3-E. OPENING AND CLOSING THE WAITING LIST**

Should the wait for one or more bedroom sizes become excessive (exceeding 12 months), the O/A can, at their discretion, close the waiting list and no longer accept applications.

#### PCHA Policy

Should the wait for one or more bedroom sizes become excessive exceeding 12 months or if it has an adequate pool of families to fill its development, the PCHA can, at their discretion, close the waiting list, in whole or in part, and no longer accept applications. The PCHA may close the waiting list completely, or restrict intake preference, or restrict by bedroom size of dwelling unit. Where the PCHA has particular preferences or other criteria that require a specific category of family, the PCHA may elect to continue to accept applications from these applicants while closing the waitlist to others.

When the waiting list is closed, the PCHA will make the public aware of the waiting list closing through the advertising and notification procedures outlined in the HUD-approved Affirmative Fair Housing Marketing Plan (AFHMP), and will state the reasons for closing the waiting list. Should the PCHA close the list, the PCHA will refuse to take additional applications.

When the PCHA reopens the waiting list for one or more bedroom sizes, it will again notify the public in the manner outlined in the AFHMP. This notification will be extensive and will state how, when, and where to apply for an apartment and how applications will be added to the waiting list. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The PCHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted.

### **3-F. FAMILY OUTREACH**

#### PCHA Policy

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

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

PCHA outreach efforts will comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PCHA outreach efforts are designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities. The PCHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the PCHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

### **3-G. UPDATING THE WAITING LIST [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-18]**

Whenever a change is made in the waiting list, an action is taken, or an activity specific to an applicant occurs, a notation must be made on the waiting list.

#### PCHA Policy

At the time of initial application, the PCHA will advise families in writing that they are responsible for notifying the PCHA in writing or electronically on the PCHA website, within 10 business days of any changes in, family size or composition, preference status,



current residence, mailing address, phone numbers, e-mail address or other means of contact change.

Changes in 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.

The PCHA will require applicants to update their contact information every six months by contacting the property in writing, or by other method requested at initial application by applicants with disabilities. If no written update is received by the designated due date, the PCHA will remove the applicant from the waiting list.

Any time contact is made, an action is taken, or any activity occurs that is specific to an application, a notation will be made on 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 the PCHA's request for information or updates because of the family member's disability, the PCHA will, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation.

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, the PCHA will send an update request via first class mail or electronically by email if email address provided by applicant, to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the PCHA 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, by email, or by fax. Responses should be postmarked or received by the PCHA no later than 10 business days from the date of the PCHA letter.

If the family fails to respond within 10 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.

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

If a family is removed from the waiting list for failure to respond, the Asset Manager may reinstate the family if s/he determines the lack of response was due to PCHA error, or to circumstances beyond the family's control.

### **3-H. SELECTION FROM THE WAITING LIST**

Waiting lists will be divided into sub-lists based upon unit size, unit type, and accessibility features needed. By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application, higher preference status, or preceding lottery number. Further, all selections from the waiting list will be made considering income targeting requirements.

#### PCHA Policy

Families will be selected from the waiting list based on preference on a first-come, first-served basis according to the date and time their complete application is received by the PCHA.

Families with no preference will be selected from the waiting list based on date and time their complete application is received by the PCHA after all preference applicants have been exhausted from the waitlist.

### **3-I. APPLICANT INTERVIEW [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-24]**

When an appropriate unit will be available in the near future, the O/A must interview the applicant family to obtain current information about the family's circumstances. All information listed in Chapter 4 of the HUD Handbook 4350.3 must be discussed.

#### PCHA Policy

As applicants approach the top of the waiting list, they will be contacted by email if email address provided by applicant or first class mail to attend an interview to complete their applicant file.

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 or email is returned to the PCHA with no forwarding address, the family will be removed from the waiting list without further notice. Failure of the family to affirmatively act to notify the PCHA in writing, electronically by email, or on the PCHA website of a new or forwarding address prevents the PCHA from making an eligibility determination; therefore, no informal review will be offered.

Families selected from the waiting list are required to participate in an eligibility interview. Reasonable accommodations must be made for persons with disabilities who are unable to attend an interview due to their disability.

Being invited to attend an interview does not constitute admission to the program. Applicants who fail to attend their scheduled interview or fail to reply to the letter will have their applications removed from the waiting list, subject to reasonable accommodation for persons with disabilities.

The head of household and the spouse/co-head (18 years of age or older) are required to attend the interview together. The interview will be conducted only if the head of household or spouse/cohead provides appropriate 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.

Assistance cannot be provided to the family until all social security number (SSN) documentation requirements are met. Pending disclosure and documentation of social security numbers, if the PCHA determines that an applicant family is otherwise eligible to participate in the program, the PCHA will allow the family to retain its place on the waiting list for 30 calendar days. If the documentation is received, the applicant will be offered the next available unit if they are at the top of the waiting list. If the required documentation is **not** received the applicant will be sent a denial letter and will be removed from the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference. If the family is verified as eligible for the preference, the PCHA will proceed with the interview. If the PCHA determines the family is not eligible for the preference, the family will be placed back on the waiting list according to the date and time of their application as a no-preference applicant.

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, the PCHA 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. 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.

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

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the PCHA will provide translation services in accordance with the PCHA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the PCHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PCHA will send another

notification letter via first class mail or email if email address provided by applicant, with a new interview appointment time. 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. Applicants who fail to attend two scheduled interviews without PCHA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. Such failure to act on the part of the applicant prevents the PCHA from making an eligibility determination. Therefore, the PCHA will not offer an informal review.

### **3-J. FINAL ELIGIBILITY DETERMINATION**

#### PCHA Policy

The PCHA must verify all information provided by the family. Based on verified information related to the eligibility requirements, including PCHA suitability standards, the PCHA must make a final determination of eligibility.

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.

The PCHA will notify a family in writing or electronically by email if email address provided by applicant 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.

The PCHA must 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 review on such determination.

If the PCHA determines that the family is ineligible, the PCHA 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 review.

If the PCHA uses a criminal record or sex offender registration information as the basis of a denial, a letter along with 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 the PCHA can move to deny the application. Applicant disputes of the accuracy and relevance of the information must be submitted to the PCHA in writing or electronically by email within 10 business days of date of letter.

## Chapter 4

### PROJECT ELIGIBILITY

Program eligibility determines whether applicants are eligible for assistance, while project eligibility establishes whether applicants are eligible to reside in the specific project to which they have applied. Project eligibility may be affected by:

- Whether some or all of the units in the project are designated for specific family types
- Project-specific occupancy standards (See Section 4-C)
- Whether some or all of the units in the project are layered with other programs and therefore may have different requirements

#### **4-A. PROJECT-SPECIFIC REQUIREMENTS [HUD Handbook 4350.3, REV-1, CHG-4, Chapter 3, Section 2]**

The O/A is required to define if the property is designated for a special population, such as elderly or disabled.

##### PCHA Policy

The PCHA does not have designated elderly or designated disabled housing at this time.

#### **4-B. INCOME ELIGIBILITY [24 CFR 5.653; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-6, Figure 3-3]**

##### **Income Limits**

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the PBRA program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county. Income limits are determined by HUD program type.

##### **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 the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

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

## 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, the household's annual income does not exceed applicable program income limits, a copy of which will be available upon request.

### Maximum Income

#### PCHA Policy

At the time of admission, household annual income must not exceed current income limits for the program to which application is made. A household does not need to have income to be eligible for assisted housing programs that provide assistance to meet basic rent obligations through an assistance contract.

### 4-C. OCCUPANCY STANDARDS [HUD Handbook 4350.3, REV-1, CHG-4, Section 3-23]

In selecting a family to occupy a particular unit, the O/A may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 5.655(b)(4)]. HUD does not specify the number of persons who may live in units of various sizes. Although the O/A does determine the size of unit the family qualifies for under the occupancy standards, the O/A does not determine who shares a bedroom/sleeping room. Occupancy standards will be applied in a manner consistent with fair housing requirements. Applicants will be housed in a unit size appropriate for their household.

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Live-in aides and foster children and adults are considered members of the household, not the family. While the income and assets of these household members are excluded when determining initial eligibility, all members of the household, including foster children and adults and any live-in aides, are considered for purposes of unit size. HUD defines a foster adult as a member of the household who is 18 years or older and meets the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state. In general, a foster adult is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

HUD defines a foster child as a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

In accordance with HUD Handbook 4350.3, REV-1, CHG 4, household members include, but are not limited to the following:

- All full-time family members
- All anticipated children, defined as the following:
  - Children expected to be born to a pregnant woman
  - Children in the process of being adopted by an adult family member

- Children whose custody is being obtained
- Foster children who will reside in the unit
- Children who are temporarily in a foster home who will return to the family
- Children in joint custody arrangements who are present in the household 50 percent or more of the time
- Children who are away at school and who live at home during recesses
- Live-in aides
- Foster adults living in the unit

PCHA Policy

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

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
1 BR	1	4
2 BR	2	6
3 BR	3	8
4 BR	4	10

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

- Persons of the opposite sex (other than spouses, and children under age 5) will not be required to share a bedroom.
- Persons of different generations will not be required to share a bedroom. A generation typically refers to groups of people born over a 15-20 year span. PCHA has adopted a generation to be defined as an 18 year span. %
- 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 one bedroom.
- Children of separate genders regardless of age (i.e., from birth) will be allocated separate bedrooms.
- Children of the same gender with an age difference exceeding 6 years will be allocated separate bedrooms.
- Unrelated adults of the same gender will be allocated separate bedrooms.
- Persons of different generations will be allocated separate bedrooms.

- Foster children will be included in determining unit size only if they will be in the unit for more than 6 months.

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

The family may only be on the waiting list for one bedroom size at any property. For example, if the family qualifies for both a one- and a two-bedroom waiting list, the family may not be on both lists. Once the family selects a bedroom size, they may not switch to a different bedroom size waiting list unless they experience a qualifying event such as birth, adoption, or court-awarded custody of a child.

#### **4-D. EXCEPTIONS TO OCCUPANCY STANDARDS**

##### PCHA Policy

##### **Types of Exceptions**

The PCHA will consider granting exceptions to the occupancy standards at the family's request if the PCHA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities.

When evaluating exception requests the PCHA will consider the size and configuration of the unit. In no case will the PCHA 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, unless they have a subsequent change in family size or composition.

To prevent vacancies, the PCHA 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 or electronically by email.

In the case of a request for exception as a reasonable accommodation, the PCHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PCHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. An oral request for a reasonable accommodation made by the family to the PCHA will be accepted.



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

If a person's disability is obvious or otherwise known to the O/A, 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 the PCHA, the PCHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The PCHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PCHA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. The PCHA will notify the family of its decision within 10 business days of receiving the family's request.

## Chapter 5

### PROGRAM ELIGIBILITY

The O/A is responsible for ensuring that every individual and family admitted to the program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted. The family must provide any information needed by the O/A to confirm eligibility and determine the level of the family's assistance.

In addition to meeting the requirements listed in this section, in order to be eligible:

The unit for which the applicant household is applying will be the household's sole place of residence.

At the time of admission, the applicant may not be receiving rental assistance in another unit unless that assistance will be terminated at the time of admission.

#### **5-A. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [HUD Handbook 4350.3, REV-1, CHG-4, Section 3-12; 24 CFR 5, Subpart E]**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

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

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

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

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals, and eligible noncitizens, the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 years of age 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 the O/A to request additional documentation of their status, such as a birth certificate or U.S. passport.

#### **PCHA Policy**

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

### ***Eligible Immigrants***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the O/A must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The O/A will follow all USCIS protocols for verification of eligible immigration status.

#### **PCHA Policy**

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PCHA efforts to verify their immigration. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

### ***Ineligible Noncitizens***

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The O/A 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).

#### **PCHA Policy**

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor

children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

### ***Mixed Families***

#### PCHA Policy

A family is eligible for admission as long as at least one member is a U.S. citizen, a U.S. 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 an informal review if they contest this determination.

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

If the PCHA determines that an applicant family does not include any U.S. citizens, U.S. nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice or notified electronically by email if email address provided by applicant, within 10 business days of the ineligibility 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 review with the PCHA. The informal review with the PCHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal review process.

### ***Timeframe for Determination of Citizenship Status for New Occupants***

#### PCHA Policy

For new occupants joining the resident family, the PCHA 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, the PCHA will grant such an extension for no more than 30 days.

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

## **5-B. SOCIAL SECURITY NUMBERS [24 CFR 5.216; Notice 2023-10]**

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The O/A must 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 document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While O/As must attempt to gather third-party verification of SSNs prior to admission as listed above, O/As also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the O/A has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the O/A must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the O/A must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

### PCHA Policy

The PCHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The O/A may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or illegible, or if the document appears to be forged.

For applicant families, if all household members have not disclosed and/or provided verification of SSNs for all household members at the time a unit is available and offered to the household, the next eligible applicant will be offered the available unit. The applicant family that has not disclosed SSNs for all household members must disclose and provide verification of SSNs for all household members within 90 days of the date of they are first offered a unit, during which time, the family may remain on the waiting list. If after 90 days of the first unit offer the applicant has not provided the SSN and verification documentation, the applicant will be determined ineligible and removed from the waiting list.

If an applicant family includes a child under six years of age who joined the household within the six months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the O/A determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

When a resident requests to add a new household member who is at least six years of age, or who is under the age of six and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The O/A may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of six and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the O/A determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the O/A is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

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

Once the individual's verification status is classified as "verified," the O/A may remove and destroy copies of documentation accepted as evidence of Social Security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

#### PCHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the PCHA will not remove copies of documentation accepted as evidence of Social Security numbers.

### **5-C. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612; FR Notice 4/10/06; FR Notice 9/21/16; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-13]**

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving Section 8 assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive Section 8 assistance. If, however, a student in these circumstances is determined independent from their parents based on the Department of Education's definition of an *independent student*, which has been expanded to include "vulnerable youth" as defined below, the income of the student's parents will not be considered in determining the student's eligibility.

The Department of Education's definition of an *independent student* includes an individual who meets one or more of the following criteria:

- The individual is 24 years of age or older by December 31 of the award year
- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
- The individual is a veteran of the Armed Forces of the United States or is currently serving on active duty in the Armed Forces for other than training purposes
- The individual is a graduate or professional student
- The individual is married
- The individual has legal dependents other than a spouse
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting, by:
  - A local educational agency homeless liaison;
  - The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
  - A financial aid administrator
- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

The law does not apply to students who reside with parents who are applying to receive Section 8 assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

If a student is applying for assistance on their own, apart from their parents, the O/A must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the O/A must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from their parents or the student's parents are income eligible for the program, (3) the "family" with which the student is applying is collectively eligible for the program, (4) is of legal contract age under state law, (5) has established a household separate from parents or legal guardians for at least one year, (6) is not being claimed as a dependent by parents or legal guardians pursuant to IRS regulations, and (7) obtains a certification of the amount of financial assistance provided by parents, signed providing the support.

**5-D. FAMILY CONSENT TO RELEASE OF INFORMATION [HUD Handbook 4350.3, REV-1, CHG-4, Section 5-12; Notice H 2023-10]**

The family must supply any information that the O/A or HUD determines is necessary to the administration of the program and must consent to O/A verification of that information.

All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Consent to Release of Information Forms HUD-9887 and 9887-A at admission.

On or after January 1, 2024, current residents must sign and submit a new Form HUD-9887 and 9887-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9887 and 9887-A will not be submitted to the O/A except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the O/A in administrative instructions.

The O/A has the discretion to establish policies around when family members must sign consent forms when they turn 18. O/As must establish these policies stating when family members will be required to sign consent forms at intervals other than at recertification.

PCHA Policy

Household members turning 18 years of age between annual recertifications will be notified in writing, or electronically by email if email address provided by applicant, that they are required to sign the required Consent to the Release of Information Forms HUD-9887 and 9887A within 10 business days of turning 18 years of age or by the time of the next recertification (whichever is earlier).

The O/A may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the O/A determines the record is needed to establish an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the O/A to revoke consent.

All adult members must also sign all O/A-created individual verification forms. If any family member who is required to sign a consent form fails to do so, the O/A will deny admission to applicants or terminate the assistance of tenants.



However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the O/A to access financial records from financial institutions, unless the O/A establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. O/As may not process interim or annual reexaminations of income without the family's executed consent forms.

#### PCHA Policy

The PCHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PCHA policy.

In order for a family to revoke their consent, the family must provide written notice to the PCHA.

Within 10 business days of the date the family provides written notice, the PCHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PCHA will notify their local HUD office.

## Chapter 6

### SCREENING CRITERIA

#### 6-A. OVERVIEW

Screening is the determination that an otherwise eligible household has the ability to pay rent on time and meet the requirements of the lease. O/As are required to establish written screening criteria to prohibit admission of certain individuals and are permitted to establish additional written screening criteria to determine whether applicants will be suitable tenants.

Live-in aides are screened using the same requirements listed for applicants, with the exception of any criteria involving credit or ability to pay rent.

The cost of screening must not be charged to applicants.

#### PCHA Policy

To obtain information about an applicant's ability to meet the essential requirements of tenancy under the Screening Criteria, PCHA shall secure background information as follows:

- (a) Record of Prior Criminal History. In gathering such record of prior criminal history, the PCHA will obtain Criminal Offender Record Information from Pinellas County Clerk of Court public records. PCHA will ensure that none of the information obtained is collected or disseminated in violation of state or federal law.
- (b) Sex Offender Registration Status. The PCHA shall obtain information necessary to determine if the applicant or any household member is subject to Florida Department of Law Enforcement (FDLE) registration or a lifetime registration requirement under any state sex offender registration program. The PCHA may verify the information provided by the applicant by searching the Dru Sjodin National Sex Offender Database (<http://www.nsopw.gov>) as recommended and in the manner set forth in HUD Notice H 2009-11.
- (c) Verification of Citizenship/Immigration status.
- (d) Enterprise Income Verification (EIV) Existing Tenant Search.

The PCHA shall also consider the following information as part of the Screening Criteria:

- (e) References from landlords in the last five (5) years or from the last two (2) consecutive tenancies, whichever is more inclusive.
- (f) Credit references furnished by a credit bureau. Information to be considered should not be more than five (5) years old.

- (g) Personal references provided by the applicant.
- (h) Verification of income either from a present employer, appropriate agency, financial institution, or other appropriate party.
- (i) Verification of a disability to determine whether a family or person meets the definition of disability used to determine eligibility for occupancy at the Development or for preferences, or to identify applicant needs for features of accessible units or reasonable accommodations. The PCHA will not specifically ask for or verify the nature and extent of the disability. There are ways to verify disability status without obtaining detailed information or information that must not be collected.

Verification of disability will be obtained through a third-party verification form sent by the PCHA to an appropriate source of information, including but not limited to the individual's physician, care worker of the elderly, social worker, psychiatrist, or the Veterans Administration. The third-party form must be signed by the applicant authorizing the release of such information to PCHA. The form will provide the definitions of disability used to determine eligibility and rent and should request that the source completing the form identify whether the applicant meets the definition. In this way the PCHA is not required to make any judgments about whether a condition is considered a disability and shall not have prohibited information. For examples and further guidance, see Appendix 15 to HUD Handbook 4350.3 REV-1.

In the case of applications for Federally Assisted Housing units, receipt of social security disability payments may be adequate verification of an individual's disability status for housing subsidy programs using the Social Security's definition for a person with disabilities (See HUD Handbook 4350.3 REV-1).

#### **6-B. REQUIRED DENIAL OF ADMISSION [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-7; 24 CFR Part 5, Subpart I]**

HUD requires the O/A to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last three (3) years for drug-related criminal activity. HUD permits but does not require the O/A to admit an otherwise-eligible family if the household member has completed an O/A-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).

##### PCHA Policy

The PCHA will admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity, if the

PCHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PCHA, or the person who committed the crime is no longer living in the household.

- The O/A determines that any household member is determined to be currently engaged in the illegal use a controlled substance (e.g., marijuana). A controlled substance is defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

#### PCHA Policy

*Currently engaged in* is defined as any use of illegal drugs during the previous twelve (12) months, unless the applicant is currently enrolled in and fully compliant with treatment.

- The O/A 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.

#### PCHA Policy

In determining reasonable cause, the PCHA will consider all credible evidence, including but not limited to, any record of convictions or arrests of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record of arrests will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. The PCHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

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

#### PCHA Policy

At the time of application processing, the PCHA will screen all applicants and household members for state sex offender registration in all states where the applicant and members of the applicant's household have resided using the Dru Sjodin National Sex Offender Database (<http://www.nsopw.gov>).

If it is determined that a household member is subject to a state lifetime sex offender registration requirement, the household will be denied, or assistance will be terminated, unless the ineligible household member is removed from the household. For applicant households, the ineligible household member must be removed from the application, or the application will be denied.

The PCHA will screen all household members for state sex offender registration and criminal history at the time of each resident's annual recertification. Should there be any evidence that any member of the applicant/resident household is subject to a state lifetime sex offender registration program or that any prior records have been falsified or not properly disclosed, or that a criminal history is discovered that violates the above policies in effect at the time of the annual recertification, the resident's lease may be immediately terminated or the family will be given the opportunity to remove the offender from the household.

In the cases listed above, proof that the ineligible member has been removed from the household must be provided to management. This would include (1) executing a new lease without the ineligible household member, or (2) established utility account at another address, or (3) verification of a change in address from the U. S. Postal Service for the ineligible member.

- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

## 6-C. ASSET LIMITATION [24 CFR 5.618]

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property (as defined under state law in which the property is located) that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

The O/A does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the O/A must comply with all the confidentiality requirements under the Violence Against Women Act (VAWA). The O/A must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

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

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

### PCHA Policy

The PCHA defines *not sufficient for the size of the family* as being overcrowded based on the PCHA's occupancy standards in Chapter 4 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the O/A );

#### PCHA Policy

In general, the PCHA defines a *geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The PCHA will consider circumstantial details a family faces when determining whether a geographical hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located. (e.g., a storefront zoned for commercial use only)

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603, it will be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family is out of compliance with the asset limitation.

## 6-D. ASSET LIMITATION FOR RESIDENTS AT ANNUAL REEXAMINATION

The O/A has discretion with respect to the application of the asset limitation at annual recertification. The O/A may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

Regardless of the policy adopted, O/A's must comply with federal fair housing and civil rights requirements, including reasonable accommodation requirements. This obligation applies regardless of whether the O/A established enforcement, limited enforcement, or exception policies to the asset limitation at reexamination. This may mean, for example, that the O/A would be required to allow someone to cure their noncompliance or provide more time to demonstrate they have cured their noncompliance before terminating assistance if there was a nexus between the person's disability and their need to cure or their need for additional time to demonstrate they have cured their noncompliance. A reasonable accommodation could require delaying the initiation of termination or eviction proceedings for more than six months.

### PCHA Policy

The PCHA must enforce the asset limitation at initial certification for families who lost their assistance because they failed to recertify timely or began to pay market rent, remained in the unit, and then lost income, once again requiring assistance.

The PCHA has adopted a policy of **total enforcement** of the asset limitation for all residents.

Families who are found to be out of compliance with the asset limitation at annual reexamination, the PCHA must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance. PCHA may delay the initiation of termination or eviction proceedings for noncompliant families for up to but no longer than six months.

No family will be given an opportunity to cure noncompliance.

Within 10 days of completing the family's recertification in which the family violates the asset limitation, the PCHA will provide the family with written notice stating the family is out of compliance with the asset limitation, and PCHA policy calls for termination of assistance within six months. The notice will include the date the family's assistance will be terminated and/or eviction proceedings will begin.



## 6-E. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

The O/A is responsible for screening family behavior and suitability for tenancy.

### PCHA Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past three 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 PCHA 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 or arrests for suspected drug-related or violent criminal activity of household members within the past three years. A conviction for such activity will be given more weight than an arrest. A record of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

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

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five (5) years or two (2) consecutive tenancies.

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five (5) years or two (2) consecutive tenancies which may adversely affect the health, safety, or welfare of other tenants

Owes rent or other amounts to this or any other O/A or PHA 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 PCHA personnel

*Abusive or violent behavior towards PCHA 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.

## 6-F. CONSIDERATION OF CIRCUMSTANCES

HUD authorizes the O/A to consider all relevant circumstances when deciding whether to deny admission based on a family's history except in the situations for which denial of admission is mandated.

In the event the O/A 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, O/As may give consideration to factors that might indicate a reasonable probability of favorable future conduct.

### PCHA Policy

Mitigating circumstances shall be verified. The individual performing the verification must corroborate the reason given by the applicant for unacceptable tenancy-related behavior and indicate the good prospect for lease compliance in the future because the reason for the unacceptable behavior is either no longer in effect or is otherwise controlled. The PCHA will consider the following facts and circumstances prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property

- The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act

- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking

- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

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

- Any statements made by witnesses or the applicant not included in the police report

- Whether criminal charges were filed

- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

- Evidence of criminal conduct, if it indicates a demonstrable risk to safety or property

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

In the case of drug or alcohol abuse, the PCHA will consider whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

The PCHA 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.

Where an applicant claims that prior unacceptable tenancy-related behavior resulted from alcohol abuse or use of illegal drugs, acceptable verification of mitigating circumstances would have to establish that:

(As applicable) There is no current illegal use, which includes activity within the last year, of controlled substances. If such use is documented, applicant must present evidence that such use has stopped and is unlikely to recur.

(As applicable) There is no current abuse of alcohol, which includes abuse within the last year, and abuse is unlikely to recur.

During the period for which the applicant has claimed no current use, the applicant's behavior as a tenant must have been acceptable.

If an applicant claims past tenancy-related problems were the result of a disability and some condition has changed making such behavior unlikely to recur, the PCHA shall consider evidence supporting such claims. All applicants are responsible for providing verification for such claims. In instances where the applicant claims some services or treatment shall be available to enable the applicant to correct the problem behavior, the PCHA shall require verification that such services are available, and that the applicant is likely to continue to use such services or treatment.

Further, the PCHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the PCHA's policies.

While the PCHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform the PCHA in accordance with Chapter 8 of this TSP that their status as a victim is directly related to the grounds for the denial. The PCHA will request that the applicant provide enough

information to the PCHA to allow the PCHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The PCHA shall have the right to request information reasonably needed to verify the mitigating circumstances, even if such information is of a confidential nature (e.g. verifications from medical professionals that provide confidential information.). If the applicant refuses to provide or give access to such further information the PCHA may choose not to give further consideration to the mitigating circumstance.

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

#### PCHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application.

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

### **Reasonable Accommodation**

#### PCHA Policy

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

## 6-G. CREDIT HISTORY

### PCHA Policy

The PCHA may consider an applicant's credit history, but such information may ONLY be used in lieu of rental history to determine an applicant's ability to pay rent when history is not available. In order for a credit report to be considered acceptable, the credit report may show minor, moderate, or limited credit problems within the last three years.

The PCHA will consider the existence of mitigating factors before denying admission to an applicant based on the failure to meet prior financial obligations. Mitigating circumstances may include:

- Loss of employment or other financial difficulties;
- A representative payer or other reliable third party who would take written responsibility for payment;
- Evidence that such poor credit was the result of a disability that is now under control; or
- Evidence that credit problems were the result of other circumstances that no longer exist and there is reason to believe that applicant will now pay rent promptly and in full.

An applicant's ability and willingness to pay rent must be demonstrated through an identifiable source of sufficient income to pay rent and prior rental history. The lack of credit history, as opposed to poor credit history, is not sufficient justification to reject an applicant. The PCHA must also take into account rent burden if an applicant can demonstrate a history of satisfying a higher rent burden than the PCHA normally employs.

## **6-H. RENTAL HISTORY**

### PCHA Policy

In order to determine the suitability of applicants, the PCHA will examine applicant history for the past five (5) years or from the last two (2) successive tenancies, whichever is more inclusive.

Any one of the following by any household member listed on the application may result in rejection of the application:

Any history that the applicant has moved out of a residence owing a balance.

Any eviction from a previous residence in the last three years for eviction from federally assisted housing for drug-related criminal activity.

Four or more late payments of rent within a 12-month period from a current or previous residence.

Any one report that the applicant, or their household members or guests, were destructive to the unit or common areas at a current or previous residence.

Any one report that the applicant has or had poor housekeeping habits rising to the level of a health or safety threat from a current or previous residence.

Any one report that the applicant caused or was involved in disturbances at a current or previous residence.

Any one report that the applicant did not abide by the rules and regulations at a current or previous residence.

If an applicant has no rental payment history, the PCHA will check court records of financial judgments and credit reports. A lack of rental history will not disqualify someone from becoming a resident, but a poor rental history may.

Applicants with no rental payment history will also be asked to provide the PCHA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available.

The PCHA may conduct housekeeping inspections.

## **6-I. EXISTING TENANT SEARCH**

As part of the application review process, HUD requires that the O/A use the EIV system to determine if the applicant or any member of the applicant household is currently receiving HUD assistance. The Existing Tenant Search will indicate if an applicant or any member of the household is currently receiving subsidy at another community. This report will be printed and maintained in the application file in accordance with HUD's recordkeeping requirements.

### PCHA Policy

If the EIV Existing Tenant Search reveals that the applicant or a member of the applicant's household is currently receiving HUD rental assistance at another residence, the PCHA must follow up first with the resident to discuss the details of their circumstances, and then with the respective O/A or PHA to confirm the individual's program participation status prior to admission.

The PCHA will also attempt to coordinate move-out and move-in dates with the resident and the respective O/A or PHA at the other location.

In addition, applicants will be verbally notified that rental assistance will not be provided for the new unit until the day after assistance stops in the current residence, as identified in TRACS.

Prior to move-in, the applicant will be required to submit to the PCHA a move-out inspection form or written verification of move-out, signed and dated by the previous landlord.

## **6-J. MISREPRESENTATION OF INFORMATION**

An application will be rejected if during the course of processing it becomes evident that an applicant or any applicant household member has falsified or otherwise misrepresented any facts about their current situation, history, or behavior in a manner that would affect eligibility or applicant selection criteria qualifications, including preferences, income, assets, allowances, or rent. This provision shall not be applied to minor and unintentional mistakes that produce no benefit to the applicant.



## Chapter 7

### UNIT OFFER AND TRANSFER POLICY

The PCHA assigns eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination.

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

#### 7-A. NUMBER OF OFFERS

##### PCHA Policy

The first qualified applicant in sequence on the waiting list is made **one** offer of a unit of appropriate size and type. The applicant must accept the vacancy offered or be dropped from the waiting list.

#### 7-B. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

##### PCHA Policy

Applicants must accept or refuse a unit offer within five business days of the date of the offer is communicated (by phone, mail, or email if email address provided by applicant) or be removed from the waiting list. The PCHA will make a unit offer either by phone, first-class mail, or email if email address provided by applicant. PCHA will send a certified letter, with return receipt requested if contact is being made by letter. All offers made over the phone will be confirmed to the applicant by certified letter, with return receipt requested, or email if email address provided by applicant.

If more than one unit of appropriate size and type is available, the first unit to be offered will be the unit that is or will be ready for move-in first. "Ready for move-in" means the unit has no deficiencies.

#### 7-C. REFUSALS OF UNIT OFFERS

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

##### PCHA Policy

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 waiting list

Applicants may refuse to accept a unit offer for "*good cause*." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc.

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 the PCHA'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.

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

The PHA will require documentation of good cause for unit refusals.

## **Unit Refusal Without Good Cause**

### PCHA Policy

When an applicant rejects the unit offer without good cause, the PCHA will remove the applicant's name from the waiting list and send notice to the family of such removal via first-class mail or electronically by email if email address provided by applicant. The notice will inform the family of their right to request an informal review and the process for doing so.

Applicants who are removed from the waiting list because they refuse a unit without good cause may not reapply for housing for 12 months.

## **7-D. ACCESSIBLE UNITS**

### PCHA Policy

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

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

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

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

When there are no resident or applicant families requiring the accessible features of the unit, the PCHA will offer the unit to a non-disabled applicant.

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

## **7-E. TRANSFER REQUESTS**

The O/A is required to develop written unit transfer policies in the TSP that include transfer waiting lists, acceptable reasons for transfers, procedures for filling vacancies, and whether unit transfers take priority over applicants from the property waiting list.

The O/A's transfer policy must be reasonable, must ensure that families are not discriminated against based on race, color, religion, sex, national origin, age, familial status, and disability, and must be applied consistently.

### PCHA Policy

Residents requesting a transfer to another unit will be required to submit a written or electronic request for transfer.

In case of a reasonable accommodation transfer, the PCHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the PCHA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted. A verbal request will be accepted by the PCHA.

The PCHA will respond by:

- approving the transfer and putting the family on the transfer list; or
- by denying the transfer; or
- by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, or stalking.

The PCHA will respond within 10 business days of the submission of the family's request.

The resident will be housed in the next available appropriately sized vacant unit, when they reach the top of the transfer waiting list. The resident understands that this unit will become their permanent residence.

## 7-F. TYPES OF TRANSFERS

### PCHA Policy

The following transfers are mandatory and are the only instances in which a transfer will be approved:

#### **Emergency Transfers**

Maintenance conditions in the resident's unit, building, or at the site that pose an immediate, verifiable threat to the health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Unit is uninhabitable through no fault of the resident (i.e., fire, flood, tornado, etc.), and emergency transfers under VAWA.

#### **Uninhabitable Unit**

If there is no vacant unit available in the case of an uninhabitable unit, the resident will be directed to the Red Cross or other appropriate agencies for temporary housing, then rehoused in their original unit after all repair work has been completed.

If more than one resident is displaced due to a fire, flood, tornado, etc., households will be placed in appropriately sized vacant units in order of initial move-in date. If no vacant units are available, the same procedures will be followed as described above.

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

For a verified incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may be established through documentation outlined in Chapter 8. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383), although, the PCHA may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the PCHA accepts an individual's statement, the PCHA will document acceptance of the statement in the individual's file in accordance with Chapter 8 of this TSP.

The PCHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, stalking, or human trafficking. The PCHA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The PCHA defines *immediately available* as a vacant unit that is ready for move-in within a reasonable period of time, not to exceed **10 calendar days**.

The PCHA has adopted an emergency transfer plan, which is included as Exhibit 8-1 to this plan.

## **PCHA -Required Transfers**

The types of transfers that may be required by the PCHA include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, and transfers for demolition, disposition, revitalization, or rehabilitation.

### **Transfers to Make an Accessible Unit Available**

When a non-accessible unit becomes available, the PCHA will transfer a family living in an accessible unit that does not require the accessible features to an available unit that is not accessible. The PCHA 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.

If a resident is required to transfer to make an accessible unit available, the resident has 30 days after they have been notified that an appropriately sized unit is available for them. If they do not move within that time frame, they are required to pay full market rent in their current unit.

### **Occupancy Standards Transfers**

The PCHA 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.

The PCHA 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 the PCHA's occupancy standards when the PCHA determines there is a need for the transfer.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) will only be required to transfer if it is necessary to comply with the approved exception.

If a resident is required to transfer due to a change in household composition, the resident has 30 days after they have been notified that an appropriately sized unit is available for them. If they do not move within that time frame, they are required to pay full market rent in their current unit.

### **Transfers for Medical Reasons**

The PCHA will transfer a family to alleviate verified medical problems.

### **Transfers for Demolition, Disposition, Revitalization, or Rehabilitation**

For households temporarily displaced due to a project involving demolition, disposition, revitalization, or rehabilitation of their current unit, the PCHA will comply with all requirements in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA).

## **RAD Requirements**

For households displaced as a direct result of the PCHA planning or implementing resident moves due to a conversion of a public housing project under RAD, the PCHA will comply with all requirements in the RAD Civil Rights – Relocation Notice H 2016-17.

### **Transfers Requested by Residents**

The types of requests for transfers from residents that the PCHA will consider are limited to requests for transfers to alleviate verified medical problems of a serious or life-threatening nature, VAWA transfers, and reasonable accommodation, including the need for an accessible unit. No other transfer requests will be considered by the PCHA.

Should a resident request a unit transfer as a reasonable accommodation, the PCHA will pay the cost of the physical move for the resident as long as doing so does not place an undue financial and administrative burden upon the PCHA.

## **7-G. TRANSFER LIST**

### PCHA Policy

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case-by-case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. High-priority transfers (verified medical condition, and reasonable accommodation)
3. Transfers to alleviate verified medical problems of a serious or life-threatening nature
4. Transfers to make accessible units available
5. Demolition, renovation, etc.
6. Occupancy standards
7. Other O/A-required 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.

Transfers will take precedence over waiting list admissions. Existing residents approved to receive Section 8 assistance will also be given priority over external applicants when allocating available Section 8 assistance slots.

## Chapter 8

### THE VIOLENCE AGAINST WOMEN ACT (VAWA)

#### 8-A. OVERVIEW

The Violence against Women Reauthorization Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the PBRA program. If state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

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

In addition to definitions of key terms used in VAWA, this chapter contains general VAWA requirements and O/A policies in three areas: notification, documentation, and confidentiality, as well as the O/A's Emergency Transfer Plan required under VAWA.

#### 8-B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship



- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emerging technologies

### **8-C. NOTIFICATION [24 CFR 5.2005(a)]**

#### **Notification to Public**

The O/A adopts the following policy to help ensure that all actual and potential beneficiaries of its program are aware of their rights under VAWA.

#### PCHA Policy

The PCHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of form HUD-5380, Notice of Occupancy Rights Under the Violence Against Women Act (Exhibit 8-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (Exhibit 8-2)

A copy of the PCHA's emergency transfer plan (Exhibit 8-3)

A copy of the PCHA's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 8-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY)

Contact information for local victim advocacy groups or service providers

## **Notification to Applicants and Tenants [24 CFR 5.2005(a)]**

The O/A must provide the Notice of Occupancy Rights (HUD-5380) and certification form (HUD-5382) at admission, along with any notice of denial or eviction.

### PCHA Policy

The PCHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PCHA will also include such information in all notices of denial of assistance.

The PCHA will provide all tenants with information about VAWA at the time of admission and at annual reexamination. The PCHA will also include such information in all termination of assistance and termination of tenancy (eviction) notices.

The O/A is not limited to providing VAWA information at the times specified in the above policy.

### PCHA Policy

Whenever the PCHA has reason to suspect that providing information about VAWA to a tenant or affiliated individual might place a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking at risk, it will attempt to deliver the information by hand directly to the victim, or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PCHA may decide not to send mail regarding VAWA protections to the victim's unit if the PCHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PCHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

#### **8-D. VAWA COMPLAINT PROCESSING [Notice FHEO 2023-01]**

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

##### PCHA Policy

Applicants or tenant families who wish to file a VAWA complaint against the PCHA may notify the PCHA either orally or in writing.

The PCHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The PCHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

The PCHA will attempt to remedy complaints made against the PCHA and will conduct an investigation into all allegations of discrimination.

The PCHA will keep a record of all complaints, investigations, notices, and corrective actions.

## **8-E. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY**

### **Family Breakup**

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the O/A must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking, see Section 8-F of this plan.)
- If a court determines the disposition of property between members of the assisted family, the O/A is bound by the court's determination of which family members continue to receive assistance.

#### PCHA Policy

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

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

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

In the absence of a judicial decision or an agreement among the original family members, the PCHA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the PCHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including a family member who was forced to leave a HUD-assisted unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 8-F of this TSP; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

## **8-F. DOCUMENTATION [24 CFR 5.2007]**

An O/A presented with a claim for initial or continued assistance based on status as a victim or threatened victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The O/A may extend this time period at its discretion. However, in the case of conflicting certifications, the O/A may require documentation within 30 days from the date of the request [24 CFR 5.2007(a)].

The individual may satisfy the O/A's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1. A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation)
2. A federal, state, tribal, territorial, or local police report or court record, or an administrative record
3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, or human trafficking or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney, a mental health professional, or a medical 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.

The O/A may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [24 CFR 5.2007(b)(2)].

#### PCHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, stalking or human trafficking, will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PCHA may, at its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PCHA will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim’s need to address health or safety issues. Any extension granted by the PCHA will be in writing.

Once the victim provides documentation, the PCHA will acknowledge receipt of the documentation within 10 business days.

A hearing will be held by a third party with experience in adjudicating domestic violence cases, upon mutual agreement by the PCHA and involved parties, within 10 business days of receipt of documentation. Notification of the outcome of the hearing will be provided in writing to the involved parties within 10 business days of the meeting.

### **Conflicting Documentation [24 CFR 5.2007(b)(2)]**

In cases where the O/A receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the O/A may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The O/A may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the O/A. The O/A must honor any court orders issued to protect the victim or to address the distribution of property. In cases of conflicting information, the O/A may require an applicant or tenant to submit third-party documentation within 30 calendar days of the date of the request for the third-party documentation.

#### PCHA Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the PCHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) and by following any HUD guidance on how such determinations should be made.

If the PCHA does not receive third-party documentation within the required timeframe (and any extensions), the PCHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial.

The individuals requesting relief under VAWA will have 30 calendar days to submit third-party documentation. The PCHA may, at its discretion, extend the deadline for 10 business days. Any extension granted by the PCHA will be in writing.

When requesting third-party documents, the PCHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(b)(1)(iv)]**

The O/A has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

#### PCHA Policy

If the PCHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PCHA will document acceptance of the statement or evidence in a separate file, away from the resident's file, in a secure place.



### **Failure to Provide Documentation [24 CFR 5.2007(a)(2)]**

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

### **8-G. CONFIDENTIALITY [24 CFR 5.2007(c)]**

All information provided to the O/A regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that the O/A (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

#### PCHA Policy

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

**EXHIBIT 8-1: PINELLAS COUNTY HOUSING AUTHORITY EMERGENCY  
TRANSFER PLAN, FORM HUD - 5381**

**PINELLAS COUNTY HOUSING AUTHORITY**  
**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence,**  
**Sexual Assault, or Stalking**  
**Section 8 Project-Based Rental Assistance Program**

**Emergency Transfers**

The Pinellas County Housing Authority (PCHA) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>1</sup> the PCHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The ability of the PCHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PCHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **Section 8 Project-Based Rental Assistance program** is in compliance with VAWA.

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<sup>1</sup> Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

## **Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

## **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PCHA's management office and submit a written request for a transfer to either the PCHA central office or Norton Apartments leasing office, Attention: Asset Manager. The PCHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PCHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

The PCHA may allow for a verbal statement/self-certification in certain circumstances. While the PCHA may request in writing that the victim provide documentation of an occurrence of domestic violence, dating violence, sexual assault, or stalking, third-party documentation may not be required to qualify the tenant for an emergency transfer.

## **Confidentiality**

The PCHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PCHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. Any request for protection under VAWA will be kept in a file separate from the resident/unit file, and any requests made under VAWA will not be noted in the resident/unit file. Requests made under VAWA will not be notated in any shared database systems. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PCHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

## **Emergency Transfer Timing and Availability**

The PCHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PCHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PCHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PCHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PCHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PCHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

## **Emergency Transfers: PBRA Program**

If you are a resident and request an emergency transfer as described in this plan, the PCHA will attempt to assist you in moving to a safe unit quickly. The PCHA will make exceptions as required to policies restricting moves.

At your request, the PCHA will refer you to organizations that may be able to further assist you. You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- Public housing program
- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by the PCHA

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the PCHA will refer you to organizations that may be able to further assist you.

## **Internal and External Transfer Requests**

The tenant may request an internal transfer within the same single or scattered site property in which the tenant resides or may request an external move to move out of the property in which they reside. The victim may request both an internal transfer and an external move concurrently if an internal safe unit is not immediately available. The PCHA will make all reasonable efforts to assist tenants with requesting both internal transfers and external .

The PCHA will allow the tenant to make an internal transfer when a safe unit is not immediately available. The owner defines immediately available as a vacant unit, ready for move-in within a reasonable period of time based on local factors. The PCHA will ensure that requests for internal emergency transfers under VAWA are given the same priority already provided to other types of emergency transfer requests. The tenant will be offered the first available vacant unit ready for move-in in the same property or in another building that is part of the same scattered-site property in accordance with this plan. The victim will be allowed to assess the availability of the units and the suitability according to the individual circumstances of the household. If the first unit offered is not suitable due to these circumstances, the PCHA will continue to make every effort to provide an alternative unit as soon as one is available that meets the criteria for the household.

If an internal transfer is not viable, the PCHA will discuss transfer options for external moves with the victim in accordance with this plan.

An external move may be requested when a unit that meets the victim's safety standard is not available at the current property or is not immediately available. If an external move is required, the PCHA will, at a minimum, provide the victim with contact information for relevant local service providers, government agencies, and other affordable housing developments in the area.

Note that qualifying for an emergency transfer does not guarantee either continued assistance under the current program or an external move to another covered housing program. Emergency transfer requirements do not supersede any eligibility or occupancy requirements that may apply under a covered housing program. Tenants must still meet the eligibility criteria for the property to which they are moving.

### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

### **Additional Local Organizations:**

The following local organizations offer assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

For help regarding sexual assault, you may contact 24 Hour Rape Crisis Hot Line at (727) 530-RAPE (7273) or the Abuse Hotline at (800) 962-2873.

Victims of stalking seeking help may contact Community Action Stops Abuse (CASA) 24/7 Hotline: (727) 895-4912, TTY/TDD: (727) 828-1269, 24/7 online chat: [www.CASAPinellas.org/chat](http://www.CASAPinellas.org/chat) , Website: [www.casapinellas.org](http://www.casapinellas.org), Fax: (727) 821-7101, or Hope Villages of America – The Haven 24/7 Hotline: (727) 442-4128, TTY/TTD: (727) 446-2148, Fax: (727) 461-4702, Website: [hopevillagesofamerica.org](http://hopevillagesofamerica.org)





**EXHIBIT 8-2: PINELLAS COUNTY HOUSING AUTHORITY NOTICE OF  
OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM  
HUD-5380**

**PINELLAS COUNTY HOUSING AUTHORITY**

**Notice of Occupancy Rights under the Violence Against Women Act<sup>3</sup>**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>4</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the project-based rental assistance (PBRA) program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under the project-based rental assistance (PBRA) program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the project-based rental assistance (PBRA) program, you may not be denied assistance, terminated from participation, or be evicted from your rental

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<sup>3</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

<sup>4</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the project-based rental assistance (PBRA) program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

### **Removing the Abuser or Perpetrator from the Household**

The PCHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PCHA chooses to remove the abuser or perpetrator, the PCHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PCHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PCHA must follow Federal, State, and local eviction procedures. In order to divide a lease, the PCHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, the PCHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PCHA may ask you to provide documentation that you are requesting to move because of an

incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

2. **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

the PCHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PCHA's emergency transfer plan provides further information on emergency transfers, and the PCHA must make a copy of its emergency transfer plan available to you if you ask to see it.

## **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The PCHA can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PCHA must be in writing, and the PCHA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The PCHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PCHA as documentation. It is your choice which of the following to submit if the PCHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PCHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that the PCHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PCHA does not have to provide you with the protections contained in this notice.

If the PCHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PCHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PCHA does not have to provide you with the protections contained in this notice.

### **Confidentiality**

The PCHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PCHA must not allow any individual administering assistance or other services on behalf of the PCHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The PCHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PCHA, however, may disclose the information provided if:

- You give written permission to the PCHA to release the information on a time limited basis.
- The PCHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PCHA or your landlord to release the information.

VAWA does not limit the PCHA duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

## **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PCHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PCHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PCHA can demonstrate the above, the PCHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **HUD Miami Field Office**.

**Address:** Brickell Plaza Federal Building, 909 SE First Avenue, Room 500, Miami, Florida 33131-3028; **Phone:** (305) 536-5678; **Fax:** (305) 536-5765; **TTD:** (305) 536-4743; **Email:** [FL\\_Webmanager@hud.gov](mailto:FL_Webmanager@hud.gov)

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at

<https://portal.hud.gov/hudportal/documents/huddoc?id=5720-F-03VAWAFinRule.pdf>.

Additionally, the PCHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact Asset Manager at (727) 441-9010.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY).

You may also contact Suncoast Center, Inc. at (727) 388-1220 or [www.suncoastcenter.org](http://www.suncoastcenter.org)

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact 24 Hour Rape Crisis Hot Line at (727) 530-RAPE (7273) or the Abuse Hotline at (800) 962-2873.

Victims of stalking seeking help may contact Community Action Stops Abuse (CASA) 24/7

Hotline: (727) 895-4912, TTY/TDD: (727) 828-1269, 24/7 online chat:

[www.CASAPinellas.org/chat](http://www.CASAPinellas.org/chat) , Fax: (727) 821-7101, or Hope Villages of America – The Haven

24/7 Hotline: (727) 442-4128, TTY/TTD: (727) 446-2148, Fax: (727) 461-4702, Website:

[hopevillagesofamerica.org](http://hopevillagesofamerica.org)

**Attachments:** Certification form HUD-5382

Emergency Transfer Plan HUD-5381

Emergency Transfer Request HUD-5383





**EXHIBIT 8-3: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION,  
FORM HUD-5382**

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_  
\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_  
\_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s): _____ _____ _____ _____
--

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.



**EXHIBIT 8-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383**

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_  
\_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_  
\_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.  
\_\_\_\_\_  
\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

## Chapter 9

### PROVISIONS REQUIRED UNDER HOTMA

#### 9-A. OVERVIEW

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The final rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA was officially published in the *Federal Register* on February 14, 2023. HUD issued notice H 2023-10 to provide guidance to O/As on the implementation of the program changes described in the final rule. The notice required that for certain topic areas, O/As establish policies in the Tenant Selection Plan. This chapter details the O/A's policies in those areas.

#### 9-B. DE MINIMIS ERRORS [24 CFR 5.609(c)(4); Notice H 2023-10]

O/As will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when an O/A's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). O/As will not be issued a finding by HUD or the Contract Administrator for de minimis errors in income calculation. As O/As become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error. O/As must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when O/As make de minimis errors in the income determination. Families will not be required to repay the O/A in instances where the O/A miscalculated income resulting in a family being undercharged for rent. O/As must state in the TSP how they will repay or credit a family the amount they were overcharged as a result of the O/A's de minimis error in income determination.

When the resident overpaid because the resident failed to report in a timely manner, a retroactive rent decrease may not be applied by the grantee prior to the later of the first of the month following:

- The date of the change leading to the interim recertification of family income; or
- The effective date of the family's most recent previous interim or annual recertification (or initial certification if that was the family's last certification).

O/A Policy

The O/A will repay any family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the O/A's error, including de minimis errors in income determination.

When the resident overpaid because the resident failed to report in a timely manner, a retroactive rent decrease will not be applied prior to the effective date of the family's most recent previous certification.

## 9-C. ADJUSTED INCOME

### Overview

HUD regulations require O/As to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the O/A to deduct other permissive deductions in accordance with O/A policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

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

(a) *Mandatory deductions*

(1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);

(2) \$ 525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25).

(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:

(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed and

(4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions.

### Anticipating Expenses

#### PCHA Policy

The PCHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the PCHA will estimate costs based on historic data and known future costs.

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

When calculating health and medical care expenses, the PCHA will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate



regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states “it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification” [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, the PCHA will use information for the previous 12-month period.

#### **9-D. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)].

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

#### **9-E. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

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

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

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

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

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.” Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

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

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

#### PCHA Policy

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

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

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

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

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

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

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

#### PCHA Policy

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

When the PCHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

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

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

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

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

#### **PCHA Policy**

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

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

### ***Payments to Family Members***

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

### **Necessary and Reasonable Expenses**

The 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.

#### **PCHA Policy**

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

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

### PCHA Policy

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

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PCHA will consider them health and medical care expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

## **9-H. CHILD CARE EXPENSE DEDUCTION**

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

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

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

### **Qualifying for the Deduction**

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

### PCHA Policy

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 childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the PCHA 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***

### PCHA Policy

If the childcare 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 childcare expense being allowed by the PCHA.

## ***Furthering Education***

### PCHA Policy

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

## ***Being Gainfully Employed***

### PCHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that 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 their education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, childcare 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, childcare expenses are limited to \$5,000.

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

### PCHA Policy

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

### **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The O/A may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

### ***Allowable Child Care Activities***

#### PCHA Policy

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

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

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

### ***Necessary and Reasonable Costs***

Childcare 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 childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

### PCHA Policy

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

To establish the reasonableness of childcare costs, the PCHA will use the schedule of childcare costs from a qualified local entity that either subsidizes childcare costs or licenses child care providers. Families may present, and the PCHA will consider, justification for costs that exceed typical costs in the area.

### **9-I. HARDSHIP EXEMPTIONS FOR HEALTH AND MEDICAL CARE AND REASONABLE ATTENDANT CARE AND AUXILLIARY APPARATUS EXPENSES [24 CFR 5.611(c); Notice H 2023-10]**

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

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

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

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

For these families, the threshold amount is Phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's Phased-in relief begins at an interim recertification, the O/A must process another transaction one year later to move the family along to the next



phase. The transaction can be either an interim recertification if triggered, or a non-interim recertification transaction.

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

O/As must track the 24-month Phase-in period for each eligible family, even if a family's expenses go below the appropriate Phase-in percentage, during the first or second 12-month Phase-in period. The Phase-in must continue for families who move to another unit at the same property. When the family is treated as a new admission under a different property/program (e.g., the family moves from one multifamily property to another), unless the O/A has a written policy to continue the Phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the O/A.

#### O/A Policy

The O/A will not continue the Phased-in relief for families who move and are treated as a new admission at the property. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

#### **General Relief**

The second category is for families that can demonstrate:

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

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the O/Ased-in relief category above. HUD requires that O/As develop policies defining what constitutes a hardship for purposes of this exemption.

The O/A must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. O/As must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### O/A Policy

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

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

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the O/A.

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

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

#### O/A Policy

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

If the family qualifies for an exemption, the O/A will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

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

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

O/As must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. O/As must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

#### O/A Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The O/A will extend relief for an additional 90 days if the family demonstrates to the O/A's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The O/A will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the O/A may terminate the hardship exemption if the O/A determines that the family no longer qualifies for the exemption.

## **9-J. CHILD CARE EXPENSE HARDSHIP EXEMPTION [24 CFR 5.611(d) and Notice H 2023-10]**

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

The O/A must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The O/A must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. O/As must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

### O/A Policy

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

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

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

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

The O/A must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the O/A denies the request, the notice must specifically state the reason for the denial. O/As must provide families 30 days' notice of any increase in rent.

If the O/A approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the O/A if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption.

#### O/A Policy

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

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

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

The O/A may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in O/A policies. O/As are not limited to a maximum number of 90-day extensions. O/As must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

O/As must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the O/A denies the request, the notice must specifically state the reason for the denial.

O/As must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

#### O/A Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The O/A will extend relief for an additional 90 days if the family demonstrates to the O/A's satisfaction that the family continues to qualify for the hardship exemption. The O/A will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the O/A may terminate the hardship exemption if the O/A determines that the family no longer qualifies for the exemption.

## **9-K. SELF-CERTIFICATION OF CERTAIN ASSETS**

### **Net Family Assets [24 CFR 5.603]**

For families with net assets totaling \$50,000 or less (adjusted annually for inflation), the O/A may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b). This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. The O/A may not calculate or include any imputed income from assets when net family assets total \$50,000 or less (adjusted annually for inflation). O/As must clarify during the self-certification process which assets are included or excluded from net family assets.

For O/As that choose to accept self-certification, the O/A is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

O/As who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000 (adjusted annually for inflation), the O/A may not rely on the family's self-certification. Third-party verification of assets is required. Income from assets in this situation is calculated using the following methods:

- If actual returns can be calculated for an asset, the O/A must include actual income from the asset.
- If actual returns cannot be calculated, the O/A must calculate imputed returns using the HUD-determined passbook rate, which is subject to change annually for inflation. Imputed income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate.
- If the O/A can compute actual income from some but not all assets, the O/A must compute actual returns where possible and use the HUD-determined passbook rate where actual income cannot be calculated.

When verification of assets is required, O/As are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### O/A Policy

For families with net assets totaling \$50,000 or less, the O/A will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The O/A reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the O/A will use the current balance as reflected on the most recent bank statement.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the O/A will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.



## **Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]**

The O/A must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation. The O/A may accept a self-certification from the family stating that the family does not have any present ownership in any real property. If the family certifies that they do not have any present ownership interest in real property, the O/A may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the O/A must obtain third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

### O/A Policy

The O/A will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The O/A reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the O/A will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the O/A will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

## 9-L. INTERIM RECERTIFICATIONS

### **Interim Decreases [24 CFR 982.516(c)(2) and Notice H 2023-10]**

A family may request an interim determination of family income for any change since the last determination. However, the O/A may decline to conduct an interim recertification if the O/A estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The O/A may set a lower threshold in the O/A's policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the O/A from setting a dollar-figure threshold.

#### O/A Policy

The O/A will conduct an interim recertification any time the family's adjusted income has decreased by any amount.

However, while the O/A has some discretion, HUD requires that the O/A perform an interim recertification for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last recertification.

In the above circumstances, the O/A must perform an interim recertification for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then the O/A must process the removal of the household members as a non-interim recertification transaction without making changes to the family's annual adjusted income.

## **Interim Increases [24 CFR 982.516(c)(3) and Notice H 2023-10]**

O/As must not process interim recertifications for income increases that result in less than a 10 percent increase in annual adjusted income. O/As must conduct an interim recertification of family income when the O/A becomes aware that the family's adjusted income has changed by an amount that the O/A estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- O/As may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same recertification cycle; and
- O/As may choose not to conduct an interim recertification during the last three months of a certification period if a family reports an increase in income within three months of the next annual recertification effective date.

When the family previously received an interim recertification for a decrease to adjusted income during the same annual recertification cycle, an O/A has the discretion whether to consider a subsequent increase in earned income.

### O/A Policy

When a family reports an increase in their earned income between annual recertifications, the O/A will not conduct an interim recertification, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual recertification.

The O/A will process an interim recertification for any increases in unearned income of 10 percent or more in adjusted income.

The O/A will not perform an interim recertification when a family reports an increase in income (whether earned or unearned income) within three months of their annual recertification effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10 percent increase threshold, at which point the O/A must conduct an interim recertification in accordance with O/A policy.

When the family reports an increase in both earned and unearned income at the same time, the O/A must look at the earned and unearned income changes independently of each other to determine if an interim recertification is performed. The O/A will only conduct an interim recertification when the increase independently meets the 10 percent threshold and all other requirements for performing interim recertifications. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the O/A may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the O/A would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the O/A would refer to O/A policy to determine whether an interim was required.

## ***Family Reporting***

The O/A must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition, or other circumstances that may affect the family's subsidy amount or rent portion. Other circumstances may include, but are not limited to, changes in eligible deductions or citizenship status.

O/A policy may require families to report only changes that the family estimates meet the threshold for an interim recertification or the O/A may establish policies requiring that families report all changes in income, household composition, and any other change that may affect the family's adjusted income, and the O/A will subsequently determine if the change requires an interim recertification.

When the O/A determines that an interim recertification is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets or other changes in circumstances that would result in a change in the family's adjusted income, the change in assets must also be reviewed.

### O/A Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report all changes in income within 10 business days of the date the change takes effect. The family may notify the O/A either orally or in writing. If the family provides oral notice, the O/A may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, the O/A will determine whether the change will require an interim recertification.

If the change will not result in an interim recertification, the O/A will note the information in the tenant file but will not conduct an interim recertification. The O/A will send the family written notification within 10 business days of making this determination informing the family that the O/A will not conduct an interim recertification.

If the change will result in an interim recertification, the O/A will determine the documentation the family will be required to submit based on the type of change reported. The O/A will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the O/A. This time frame may be extended for good cause with O/A approval. The O/A will accept required documentation by mail, email, fax, or in person. The O/A will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim recertification. However, if the O/A determines that an interview is warranted, the family may be required to attend.

### **Changes Reported Timely**

If the family reports a change in family income, composition, or other circumstances affecting adjusted income timely in accordance with O/A policies:

- For rent increases, the O/A must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim recertification of family income. This means the decrease will be applied retroactively.

### **Changes Not Reported Timely**

If the family failed to report a change in family income, composition, or other circumstances affecting adjusted income timely in accordance with O/A policies:

- For rent increases, the O/A must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim recertification of family income.
- For rent decreases, the O/A must implement the change no later than the first rent period following completion of the interim recertification.

However, the O/A may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the recertification. O/As may choose to establish conditions or requirements for when such a retroactive application would apply. O/As that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim recertification;  
or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim recertification, the O/A must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

#### O/A Policy

In general, when the family fails to report a change in income, family composition, or other circumstances affecting adjusted income timely, and the change would lead to a rent decrease, the O/A will apply the decrease the first of the month following completion of the interim recertification.

However, the O/A will apply the results of the interim recertification retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to O/A management operations. The O/A will decide to apply decreases retroactively on a case-by-case basis.

When the O/A applies the results of interim decreases retroactively, the O/A will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with O/A policies.

The O/A will also clearly communicate the effect of the retroactive adjustment to the owner.

**9-M. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice H 2023-10]**

O/As may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs (Safe Harbor). O/As are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the O/A adopts a policy to accept this type of verification, the O/A must establish in policy when they will accept Safe Harbor income determinations and from which programs. O/As must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the O/A elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, O/As will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the O/A:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that O/As are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the O/A. O/As are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the O/A is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the O/A must calculate the family's annual income using traditional methods as outlined in Notice H 2023-10.

If the O/A uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the O/A's reporting requirement and occur after the effective date of the transaction.



The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. O/As are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

#### O/A Policy

When available and applicable, the O/A will accept other programs' Safe Harbor determinations of income at annual recertification to determine the family's total annual income. The O/A will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the O/A will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the O/A will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the O/A will obtain third-party verification of all sources of income and assets (as applicable).

The O/A will not accept other programs' determinations of income for any new admission or interim recertification.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the O/A will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;

- State the family size

- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the O/A does not receive any acceptable income determination documentation or is unable to obtain documentation, then the O/A will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the O/A will use the most recent income determination, unless the family presents acceptable evidence that the O/A should consider an alternative verification from a different Safe Harbor source.

When the O/A uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the O/A. Depending on when the change occurred, the change may or may not impact the O/A's calculation of the family's total annual income. Changes that occur between the time the O/A receives the Safe Harbor documentation and the effective date of the family's annual recert will not be considered. If the family has a change in income that occurs after the annual recert effective date, the O/A will conduct an interim recert if the change meets the requirements for performing an interim recertification. In this case, the O/A will use third-party verification to verify the change.

## **9-N. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice H 2023-10]**

HUD permits O/As to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained at move-in and every three years thereafter, in the intervening years, the O/A may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The O/A may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the O/A must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the O/A may apply the inflationary adjustment factor to the family's fixed income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but O/As may choose to adjust sources of non-fixed income based on third-party verification. O/As have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, O/As may apply a COLA to each of the family's sources of fixed income. O/As must determine all other income using standard verification requirements.

#### O/A Policy

When the O/A does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then O/A will use a streamlined income determinations where applicable.

Regardless of the percent of a family's unadjusted income from fixed income sources:

The O/A will streamline the annual recertification process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.

The O/A will document in the file how the determination that a source of income was fixed was made.

If the family's sources of fixed income have changed from the previous year, the O/A will obtain third-party verification of any new sources of fixed income.

All other income will be verified using third-party verification as applicable.

In the following circumstances, regardless of the percentage of income received from fixed sources, the O/A will obtain third-party verification, as applicable:

Of all assets when net family assets exceed \$50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During move-in and at least once every three years thereafter.

## 9-O. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the O/A does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the O/A to obtain third-party verification of:

- Reported family annual income.
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually).
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the O/A to use the most reliable form of verification that is available and to document the reasons when the O/A uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The O/A must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as “family-provided verification.”
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

### **File Documentation**

The O/A must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family’s file in sufficient detail to demonstrate that the O/A has followed all of the verification policies set forth in this plan. The record should be

sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### **9-P. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the O/A's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. O/As may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the O/A.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the O/A has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the O/A.

#### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

O/As must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

#### ***EIV Income and Income Discrepancy Reports***

O/As are required to obtain an EIV Income and Income Discrepancy report for each family any time the O/A conducts an annual reexamination. However, O/As are not required to use the EIV Income and Income Discrepancy reports:

- At annual reexamination if the O/A used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and Income Discrepancy Reports are also not available for program applicants at admission. For each new admission, the O/A is required to review the EIV Income and Income Discrepancy Reports to confirm and validate family reported income within 120 days of the TRACS submission date of the new admission. The O/A must print and maintain copies of the

EIV Income and Income Discrepancy Reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or Income Discrepancy report dates.

When required to use the EIV Income Report, for the report to be considered current, the O/A must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

### PCHA Policy

The PCHA will obtain EIV income and Income Discrepancy reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The PCHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and Income Discrepancy reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and Income Discrepancy reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the PCHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

### ***New Hires Report [Notice PIH 2023-27]***

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

O/As must review this information at annual reexamination except when the O/A uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

O/As that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the O/A requires an interim for increases in earned income after an interim decrease, then the O/A must review the report quarterly after the family's interim decrease.

### PCHA Policy

The PCHA will process an interim reexamination for families who have increases in income when there was a previous decrease. The PCHA will review the New Hires Report quarterly.



### ***No Income Reported by HHS or SSA Report***

This report is a tool for O/As to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. O/As obtain written, third-party verification of any income reported by the participant. The O/A must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

#### **PCHA Policy**

The PCHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PCHA will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, the PCHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PCHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

### ***EIV Identity Verification Report***

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth.

O/As are required to use EIV's *Identity Verification Report* monthly to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

#### **PCHA Policy**

The PCHA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PCHA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When the PCHA determines that discrepancies exist as a result of PCHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

### ***Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]***

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The O/A is required to review the report at least quarterly.

#### **PCHA Policy**

The PCHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, O/As must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The O/A must notify the owner in writing of the deceased head of household.

O/As may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

PCHA Policy

The PCHA will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining, household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The O/A may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

***Other EIV Reports [Notice PIH 2023-27]***

The O/A is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

PCHA Policy

The PCHA will review the Multiple Subsidy Report, the Failed EIV Pre-Screening Report, and Failed Verification (Failed SSA Identity Test) Report on a monthly basis.

**Upfront Income Verification Using Non-HUD Systems**

HUD encourages O/As to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

PCHA Policy

The PCHA will inform all applicants and residents of its use of the following UIV resources:

- |                                    |                              |
|------------------------------------|------------------------------|
| Thomas & Company                   | BankVOD                      |
| TriNet                             | Thomson Reuters/Confirmation |
| UConfirm                           | Vault Verify                 |
| The Pinellas County Clerk of Court | Tandem HR                    |
| MyFlorida.com                      |                              |

## **9-Q. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

### **EIV + Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the O/A may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

#### PCHA Policy

At annual reexamination, if the PCHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the PCHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The PCHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PCHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PCHA will use written third-party verification from the source as outlined below.

The PCHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” To qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the O/A. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The O/A is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the O/A should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the O/A uses written third-party verification.

When verification of assets is required, O/As are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

### PCHA Policy

In general, the PCHA will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The PCHA will not use this method if the PCHA is able to use an income determination from a means-tested federal assistance program or if the PCHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the PCHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The PCHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the PCHA determines that third-party documents provided by the family are not acceptable, the O/A will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the PCHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the PCHA will require the family to provide the two most current, consecutive pay stubs. At the PCHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PCHA may request additional paystubs or a payroll record.

## **9-R. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM** **[Notice PIH 2023 -27]**

This type of verification is a form developed by the O/A and used uniformly for all families when needed to collect information from a third-party source. This is known as “traditional third-party verification.” O/As send a O/A-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The O/A may use this method when higher forms are unavailable or are rejected by the O/A or when the family is unable to provide acceptable verification. The O/A may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

### PCHA Policy

The PCHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the PCHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

## **9-S. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]**

For third-party oral verification, O/As contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

O/As must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The O/A may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

### PCHA Policy

The PCHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the PCHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the PCHA chooses to obtain oral third-party verification, the PCHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

## **When Third-Party Verification is Not Required [Notice PIH 2023-27]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

### PCHA Policy

If the family cannot provide original documents, the PCHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

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

### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

## **9-T. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the O/A has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded.
- Net family assets total \$50,000 or less and the O/A has adopted a policy to accept self-certification.
- The family declares that they do not have any present ownership in any real property.
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The O/A has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the O/A was required to obtain third-party verification but instead relies self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

### PCHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PCHA.

The PCHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PCHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

“I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802).”

## **9-U. EARNED INCOME**

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

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

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

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

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

### PCHA Policy

The PCHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

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

## **9-V. ZERO INCOME REVIEWS [Notice H 2023-10]**

A *zero income review* is an assessment, sometimes periodic, performed by the O/A of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for O/A's to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require O/A's to conduct periodic zero income reviews. In calculating annual income, O/A's must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50059.

### PCHA Policy

The PCHA will generate from HUD's Enterprise Income Verification (EIV) System the No Income Reported on Form HUD-50059 and the No Income Reported by Health and Human Services (HHS) or Social Security Administration (SSA) reports quarterly.

The PCHA will re-verify the status of tenants reporting zero rent quarterly. All zero rent households will be notified of this requirement by sending a notice of the household's obligation to complete a zero income form and may require the resident to attend an



interview. The resident will be required to fill out a zero income questionnaire to identify current and potential future sources of income at least quarterly.

Based on the information provided by the family and in EIV, staff may require that family members provide verifications or sign release forms in order to obtain additional verification.

If any sources of income are identified on the form, the PCHA will verify the income in accordance with the requirements of HUD's verification hierarchy and PCHA policies in this Tenant Selection Plan prior to including the income in the family's annual income.

If unreported income is discovered, staff will correct certifications and follow procedures for repayment agreements as outlined in HUD Handbook 4350.3, REV-1, CHG 4, Chapter 8 Terminations here:

[https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/hsg/4350.3](https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.3)

The PCHA will only conduct interims in accordance with the policies outlined in this chapter.

## **9-W. INCOME FROM EXCLUDED SOURCES [Notice H 2023-10]**

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the O/A is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the Form HUD-50059. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

O/A's may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, O/A's have the option of requiring additional verification.

For partially excluded income, the O/A **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the Form HUD-50059. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

### PCHA Policy

The PCHA will accept the family's self-certification as verification of fully excluded income and not report the income on the Form HUD-50059. The PCHA may request additional documentation if necessary to document the income source.

The PCHA will verify the source and amount of partially excluded income in accordance with the requirements of HUD's verification hierarchy and PCHA policies in this Tenant Selection Plan.

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

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

### PCHA Policy

The PCHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PCHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the PCHA is unable to obtain third-party written verification of the requested information, the PCHA will pursue other forms of verification following the HUD's verification hierarchy.

## EXHIBIT 9-1: ANNUAL INCOME FULL DEFINITION

### 24 CFR 5.609

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

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

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

- 1) The Federal government.
- 2) A State, Tribe, or local government.
- 3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- 4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- 5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- 1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section.
- 2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (
- 3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered

costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

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

(12)

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

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

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the O/A or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child more than the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social

Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family because of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family because of Federal refundable tax credits and

Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be

included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

## EXHIBIT 9-2: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, O/As or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor.

In the case of a disposition as part of a separation or divorce settlement, the disposition will not be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts

recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.



