PHA 5-Year and Annual Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires 4/30/2011

1.0 **PHA Information**
PHA Name: Housing Authority of Whatcom County PHA Code: WA041
PHA Type: ☐ Small ☒ High Performing ☐ Standard ☐ HCV (Section 8)
PHA Fiscal Year Beginning: (MM/YYYY): 10/2010

2.0 **Inventory** (based on ACC units at time of FY beginning in 1.0 above)
Number of PH units: 63 Number of HCV units: 0

3.0 **Submission Type**
☒ 5-Year and Annual Plan ☐ Annual Plan Only ☐ 5-Year Plan Only

4.0 **PHA Consortia** ☐ PHA Consortia: (Check box if submitting a joint Plan and complete table below.)

Participating PHAs	PHA Code	Program(s) Included in the Consortia	Programs Not in the Consortia	No. of Units in Each Program	
				PH	HCV
PHA 1:					
PHA 2:					
PHA 3:					

5.0 **5-Year Plan.** Complete items 5.1 and 5.2 only at 5-Year Plan update.

5.1 **Mission.** State the PHA's Mission for serving the needs of low-income, very low-income, and extremely low income families in the PHA's jurisdiction for the next five years:

The WCHA's Mission for serving the needs of low-income, very low-income, and extremely low income families for the next five years can be found in attachment 15.

5.2 **Goals and Objectives.** Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan.

The WCHA's Goals and Objectives that will enable the WCHA to serve the needs of low-income, very low-income, and extremely low-income families for the next five years including progress in meeting the goals and objectives over the past five years can be found in attachment 15.

6.0

PHA Plan Update

(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission:

- Admissions and Continued Occupancy Policy
- 5-Year Plan
- Capital Fund
- Missions & Goals

(b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions.

- Main administrative office of the PHA
- Public Library
- Common areas of complexes (AMPs)
- Main business office of the PHA

PHA Plan Elements

1. Eligibility, Selection, and Admissions Policies, including Deconcentration and Wait List Procedures

- The Whatcom County Housing Authority's policies that govern resident or tenant eligibility, selection and admission, preferences, unit assignment, and wait list procedures for Public Housing are all contained in the Admissions and Continued Occupancy Policy. (Attachment 19)

There are no site-based waiting lists for the Whatcom County Housing Authority's Public Housing program.

2. Financial Resources –

- The Housing Authority projects tenant rental revenues of approximately $234 thousand. Operating subsidies are requested at approximately $151 thousand. Capital Grant funding for operations is budgeted at $57.11 thousand and Capital Grant for rehabilitation and modernization is estimated at $211,000 thousand. The revenues will be used to support the administration, operation, and physical maintenance and integrity of the public housing.

3. Rent Determination

- The policies that govern rents charged for WCHA's Public Housing program are contained within the Admissions and Continued Occupancy Policy. (Attachment 19)

4. Operation and Management

- The rules, standards and policies governing the management of WCHA's Public Housing program are contained within the Admissions and Continued Occupancy Policy. (Attachment 19)

5. Grievance Procedures

- WCHA's grievance and informal hearing and review procedures are contained within the Admissions and Continued Occupancy Policy and distributed/available to all applicants/tenants. (Attachment 19)

6. Designated Housing for Elderly and Disabled Families

- The WCHA doesn't have any projects designated for Elderly and Disabled Families in the upcoming fiscal year.

7. Community Service and Self-Sufficiency

- The WCHA works closely with the Whatcom Volunteer Center to provide ongoing community service options to assist our residents in meeting the community service requirements.
- The policies can be found in the Admissions and Continued Occupancy Policy. (Attachment 19)

8. Safety and Crime Prevention

- The WCHA recognizes the need for ongoing safety and crime prevention. As a result, the WCHA has included a drug-free addendum in every residents lease packet, employs site-caretakers to assist in monitoring the properties and works closely with local law enforcement including the Bellingham Police Department and the Whatcom County Sheriff's Department. In addition, WCHA extensively screens the backgrounds of all applicants.

9. Pets

- WCHA's policies and requirements pertaining to the ownership of pets in public housing are located in the Admissions and Continued Occupancy Policy. (Attachment 19)

10. Civil Rights Certification

- BHA certifies that it exams its programs to identify any impediments to fair housing within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdiction to implement any new initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with the Consolidated Plan. BHA's Admissions and Continued Occupancy Policy further explains the efforts of BHA to ensure fair housing. (Attachment 19)

11. Fiscal Year Audit

- The results of the audit for fiscal year 2008 are clean audit with no findings and an unqualified opinion.

12. Asset Management –

- Due to the small size of the public housing inventory, the Housing Authority has elected to treat its entire portfolio of 63 public housing units as a single project for reporting and budgeting purposes. It will, however, employ the precepts of evaluating the individual properties for financial performance and physical needs to ensure their long term viability for quality affordable HUD-subsidized public housing.

13. Violence Against Women Act (VAWA)

- WCHA's policies and protections under the VAWA Act are located in the Admissions and Continued Occupancy Policy. (Attachment 19)

7.0	**Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers.** *Include statements related to these programs as applicable.* Not Applicable
8.0	**Capital Improvements.** Please complete Parts 8.1 through 8.3, as applicable.
8.1	**Capital Fund Program Annual Statement/Performance and Evaluation Report.** As part of the PHA 5-Year and Annual Plan, annually complete and submit **t**he *Capital Fund Program Annual Statement/Performance and Evaluation Report*, form HUD-50075.1, for each current and open CFP grant and CFFP financing.
8.2	**Capital Fund Program Five-Year Action Plan.** As part of the submission of the Annual Plan, PHAs must complete and submit the *Capital Fund Program Five-Year Action Plan*, form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan.
8.3	**Capital Fund Financing Program (CFFP).** ☐ Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements.
9.0	**Housing Needs**. Based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data, make a reasonable effort to identify the housing needs of the low-income, very low-income, and extremely low-income families who reside in the jurisdiction served by the PHA, including elderly families, families with disabilities, and households of various races and ethnic groups, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. ▪ WCHA details it goals for housing needs and the policies in meeting those needs in the 5 Year Plan and the Admission and Continued Occupancy Policy. (Attachments 15, 19 & 23)

9.1	**Strategy for Addressing Housing Needs**. Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.** ▪ See WCHA's 5 Year Plan and Admissions and Continued Occupancy Policy. (Attachments 15 & 19)
10.0	**Additional Information**. Describe the following, as well as any additional information HUD has requested. (a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan. ▪ See Attachment 19 (b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification" ▪ See Attachment 14

11.0	**Required Submission for HUD Field Office Review**. In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. **Note:** Faxed copies of these documents will not be accepted by the Field Office. (a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations* (which includes all certifications relating to Civil Rights) (b) Form HUD-50070, *Certification for a Drug-Free Workplace* (PHAs receiving CFP grants only) (c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* (PHAs receiving CFP grants only) (d) Form SF-LLL, *Disclosure of Lobbying Activities* (PHAs receiving CFP grants only) (e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* (PHAs receiving CFP grants only) (f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. (g) Challenged Elements (h) Form HUD-50075.1, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (PHAs receiving CFP grants only) (i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* (PHAs receiving CFP grants only)

This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced 5-Year and Annual PHA Plans. The 5-Year and Annual PHA plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission and strategies for serving the needs of low-income and very low-income families. This form is to be used by all PHA types for submission of the 5-Year and Annual Plans to HUD. Public reporting burden for this information collection is estimated to average 12.68 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

Privacy Act Notice. The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality

Instructions form HUD-50075

Applicability. This form is to be used by all Public Housing Agencies (PHAs) with Fiscal Year beginning April 1, 2008 for the submission of their 5-Year and Annual Plan in accordance with 24 CFR Part 903. The previous version may be used only through April 30, 2008.

1.0 PHA Information
Include the full PHA name, PHA code, PHA type, and PHA Fiscal Year Beginning (MM/YYYY).

2.0 Inventory
Under each program, enter the number of Annual Contributions Contract (ACC) Public Housing (PH) and Section 8 units (HCV).

3.0 Submission Type
Indicate whether this submission is for an Annual and Five Year Plan, Annual Plan only, or 5-Year Plan only.

4.0 PHA Consortia
Check box if submitting a Joint PHA Plan and complete the table.

5.0 Five-Year Plan
Identify the PHA's Mission, Goals and/or Objectives (24 CFR 903.6). Complete only at 5-Year update.

5.1 Mission. A statement of the mission of the public housing agency for serving the needs of low-income, very low-income, and extremely low-income families in the jurisdiction of the PHA during the years covered under the plan**.**

5.2 Goals and Objectives. Identify quantifiable goals and objectives that will enable the PHA to serve the needs of low income, very low-income, and extremely low-income families.

6.0 PHA Plan Update. In addition to the items captured in the Plan template, PHAs must have the elements listed below readily available to the public. Additionally, a PHA must:

(a) Identify specifically which plan elements have been revised since the PHA's prior plan submission.

(b) Identify where the 5-Year and Annual Plan may be obtained by the public. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central off ice of the PHA. PHAs are strongly encouraged to post complete PHA Plans on its official website. PHAs are also encouraged to provide each resident council a copy of its 5-Year and Annual Plan.

PHA Plan Elements. (24 CFR 903.7)

1. **Eligibility, Selection and Admissions Policies, including Deconcentration and Wait List Procedures.** Describe the PHA's policies that govern resident or tenant eligibility, selection and admission including admission preferences for both public housing and HCV and unit assignment policies for public housing; and procedures for maintaining waiting lists for admission to public housing and address any site-based waiting lists.

2. **Financial Resources.** A statement of financial resources, including a listing by general categories, of the PHA's anticipated resources, such as PHA Operating, Capital and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned use for the resources.

3. **Rent Determination.** A statement of the policies of the PHA governing rents charged for public housing and HCV dwelling units.

4. **Operation and Management.** A statement of the rules, standards, and policies of the PHA governing maintenance management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including cockroaches), and management of the PHA and programs of the PHA.

5. **Grievance Procedures.** A description of the grievance and informal hearing and review procedures that the PHA makes available to its residents and applicants.

6. **Designated Housing for Elderly and Disabled Families.** With respect to public housing projects owned, assisted, or operated by the PHA, describe any projects (or portions thereof), in the upcoming fiscal year, that the PHA has designated or will apply for designation for occupancy by elderly and disabled families. The description shall include the following information: **1**) development name and number; **2**) designation type; **3**) application status; **4**) date the designation was approved, submitted, or planned for submission, and; **5**) the number of units affected.

7. **Community Service and Self-Sufficiency.** A description of: (**1**) Any programs relating to services and amenities provided or offered to assisted families; (**2**) Any policies or programs of the PHA for the enhancement of the economic and social self-sufficiency of assisted families, including programs under Section 3 and FSS; **(3)** How the PHA will comply with the requirements of community service and treatment of income changes resulting from welfare program requirements. **(Note: applies to only public housing).**

8. **Safety and Crime Prevention.** For public housing only, describe the PHA's plan for safety and crime prevention to ensure the safety of the public housing residents. The statement must include: (i) A description of the need for measures to ensure the safety of public housing residents; (ii) A description of any crime prevention activities conducted or to be conducted by the PHA; and (iii) A description of the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities.

9. **Pets.** A statement describing the PHAs policies and requirements pertaining to the ownership of pets in public housing.

10. **Civil Rights Certification.** A PHA will be considered in compliance with the Civil Rights and AFFH Certification if: it can document that it examines its programs and proposed programs to identify any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction.

11. **Fiscal Year Audit.** The results of the most recent fiscal year audit for the PHA.

12. **Asset Management.** A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

13. **Violence Against Women Act (VAWA).** A description of: **1)** Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; **2)** Any activities, services, or programs provided or offered by a PHA that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and **3)** Any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

7.0 Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers

(a) Hope VI or Mixed Finance Modernization or Development. **1)** A description of any housing (including project number (if known) and unit count) for which the PHA will apply for HOPE VI or Mixed Finance Modernization or Development; and **2)** A timetable for the submission of applications or proposals. The application and approval process for Hope VI, Mixed Finance Modernization or Development, is a separate process. See guidance on HUD's website at: http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm

(b) Demolition and/or Disposition. With respect to public housing projects owned by the PHA and subject to ACCs under the Act: **(1)** A description of any housing (including project number and unit numbers [or addresses]), and the number of affected units along with their sizes and accessibility features) for which the PHA will apply or is currently pending for demolition or disposition; and **(2)** A timetable for the demolition or disposition. The application and approval process for demolition and/or disposition is a separate process. See guidance on HUD's website at: http://www.hud.gov/offices/pih/centers/sac/demo_dispo/index.cfm
Note: This statement must be submitted to the extent **that approved and/or pending** demolition and/or disposition has changed.

(c) Conversion of Public Housing. With respect to public housing owned by a PHA: **1)** A description of any building or buildings (including project number and unit count) that the PHA is required to convert to tenant-based assistance or that the public housing agency plans to voluntarily convert; **2)** An analysis of the projects or buildings required to be converted; and **3)** A statement of the amount of assistance received under this chapter to be used for rental assistance or other housing assistance in connection with such conversion. See guidance on HUD's website at: http://www.hud.gov/offices/pih/centers/sac/conversion.cfm

(d) Homeownership. A description of any homeownership (including project number and unit count) administered by the agency or for which the PHA has applied or will apply for approval.

(e) Project-based Vouchers. If the PHA wishes to use the project-based voucher program, a statement of the projected number of project-based units and general locations and how project basing would be consistent with its PHA Plan.

8.0 Capital Improvements. This section provides information on a PHA's Capital Fund Program. With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects must be completed along with the required forms. Items identified in 8.1 through 8.3, must be signed where directed and transmitted electronically along with the PHA's Annual Plan submission.

8.1 Capital Fund Program Annual Statement/Performance and Evaluation Report. PHAs must complete the *Capital Fund Program Annual Statement/Performance and Evaluation Report* (form HUD-50075.1), for each Capital Fund Program (CFP) to be undertaken with the current year's CFP funds or with CFFP proceeds. Additionally, the form shall be used for the following purposes:

(a) To submit the initial budget for a new grant or CFFP;

(b) To report on the Performance and Evaluation Report progress on any open grants previously funded or CFFP; and

(c) To record a budget revision on a previously approved open grant or CFFP, e.g., additions or deletions of work items, modification of budgeted amounts that have been undertaken since the submission of the last Annual Plan. The Capital Fund Program Annual Statement/Performance and Evaluation Report must be submitted annually.

Additionally, PHAs shall complete the Performance and Evaluation Report section (see footnote 2) of the *Capital Fund Program Annual Statement/Performance and Evaluation* (form HUD-50075.1), at the following times:

1. At the end of the program year; until the program is completed or all funds are expended;

2. When revisions to the Annual Statement are made, which do not require prior HUD approval, (e.g., expenditures for emergency work, revisions resulting from the PHAs application of fungibility); and

3. Upon completion or termination of the activities funded in a specific capital fund program year.

8.2 Capital Fund Program Five-Year Action Plan

PHAs must submit the *Capital Fund Program Five-Year Action Plan* (form HUD-50075.2) for the entire PHA portfolio for the first year of participation in the CFP and annual update thereafter to eliminate the previous year and to add a new fifth year (rolling basis) so that the form always covers the present five-year period beginning with the current year.

8.3 Capital Fund Financing Program (CFFP). Separate, written HUD approval is required if the PHA proposes to pledge any

portion of its CFP/RHF funds to repay debt incurred to finance capital improvements. The PHA must identify in its Annual and 5-year capital plans the amount of the annual payments required to service the debt. The PHA must also submit an annual statement detailing the use of the CFFP proceeds. See guidance on HUD's website at: http://www.hud.gov/offices/pih/programs/ph/capfund/cffp.cfm

9.0 Housing Needs. Provide a statement of the housing needs of families residing in the jurisdiction served by the PHA and the means by which the PHA intends, to the maximum extent practicable, to address those needs. **(Note:** Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).

9.1 Strategy for Addressing Housing Needs. Provide a description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **(Note:** Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).

10.0 Additional Information. Describe the following, as well as any additional information requested by HUD:

(a) Progress in Meeting Mission and Goals. PHAs must include (i) a statement of the PHAs progress in meeting the mission and goals described in the 5-Year Plan; (ii) the basic criteria the PHA will use for determining a significant amendment from its 5-year Plan; and a significant amendment or modification to its 5-Year Plan and Annual Plan**. (Note: Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).**

(b) Significant Amendment and Substantial Deviation/Modification. PHA must provide the definition of "significant amendment" and "substantial deviation/modification". **(Note: Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan.)**

(c) PHAs must include or reference any applicable memorandum of agreement with HUD or any plan to improve performance. **(Note: Standard and Troubled PHAs complete annually).**

11.0 Required Submission for HUD Field Office Review. In order to be a complete package, PHAs must submit items (a) through (g), with signature by mail or electronically with scanned signatures. Items (h) and (i) shall be submitted electronically as an attachment to the PHA Plan.

(a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations*

(b) Form HUD-50070, *Certification for a Drug-Free Workplace* **(PHAs receiving CFP grants only)**

(c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* **(PHAs receiving CFP grants only)**

(d) Form SF-LLL, *Disclosure of Lobbying Activities* **(PHAs receiving CFP grants only)**

(e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* **(PHAs receiving CFP grants only)**

(f) Resident Advisory Board (RAB) comments.

(g) Challenged Elements. Include any element(s) of the PHA Plan that is challenged.

(h) Form HUD-50075.1**, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (Must be attached electronically for PHAs receiving CFP grants only).** See instructions in 8.1.

(i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* **(Must be attached electronically for PHAs receiving CFP grants only).** See instructions in 8.2.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Whatcom County Housing Authority	Capital Fund Program Grant No: **WA19PO4150109** Replacement Housing Factor Grant No:	**2009**
	Date of CFFP: _____	**FFY of Grant Approval:** **2009**

Type of Grant
__**Original Annual Statement** ___**Reserve for Disasters/Emergencies** ___**Revised Annual Statement (revision no:)**
_X_**Performance and Evaluation Report for Period Ending:** **3/31/2010** ___**Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost 1	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 20) [3]	$ -	$ 27,226.00	$ 27,226.00	$ -
3	1408 Management Improvements	$ 30,510.00	$ 36,465.56	$ 35,979.66	$ 3,017.25
4	1410 Administration (may not exceed 10% of line 20)	$ 12,568.00	$ 13,613.00	$ 13,613.00	$ 4,114.18
5	1411 Audit	$ -	$ -	$ -	$ -
6	1415 Liquidated Damages	$ -	$ -	$ -	$ -
7	1430 Fees and Costs	$ 2,500.00	$ 3,208.00	$ 2,708.00	$ 587.98
8	1440 Site Acquisition	$ -	$ -	$ -	$ -
9	1450 Site Improvement	$ 3,200.00	$ 3,208.00	$ -	$ -
10	1460 Dwelling Structures	$ 72,802.00	$ 50,267.00	$ 44,364.21	$ -
11	1465 Dwelling Equipment—Nonexpendable	$ 3,100.00	$ 2,108.00	$ -	$ -
12	1470 Non-dwelling Structures	$ -	$ -	$ -	$ -
13	1475 Non-dwelling Equipment	$ 1,000.00	$ 34.44	$ 34.44	$ 1,014.10
14	1485 Demolition	$ -	$ -	$ -	$ -
15	1492 Moving to Work Demonstration	$ -	$ -	$ -	$ -
16	1495.1 Relocation Costs	$ -	$ -	$ -	$ -
17	1499 Development Activities [4]	$ -	$ -	$ -	$ -
18a	1501 Collateralization or Debt Service paid by the PHA	$ -	$ -	$ -	$ -
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment	$ -	$ -	$ -	$ -
19	1502 Contingency (may not exceed 8% of line 20)	$ -	$ -	$ -	$ -
20	Amount of Annual Grant: (sum of lines 2 – 19)	**$ 125,680.00**	**$ 136,130.00**	**$ 123,925.31**	**$ 8,733.51**
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Whatcom County Housing Authority	Capital Fund Program Grant No: **WA19PO4150109** Replacement Housing Factor Grant No:	**2009**
	Date of CFFP: _____	**FFY of Grant Approval:** **2009**

Type of Grant

__**Original Annual Statement** ___**Reserve for Disasters/Emergencies** ___**Revised Annual Statement (revision no:)**

_X_**Performance and Evaluation Report for Period Ending:** **3/31/2010** ___**Final Performance and Evaluation Report**

Line	**Summary by Development Account**	**Total Estimated Cost**		**Total Actual Cost 1**	
		Original	**Revised [2]**	**Obligated**	**Expended**

Signature of Executive Director	**Date**	**Signature of Public Housing Director**	**Date**
John E Harmon	4/23/2010		

Part II: Supporting Pages

PHA Name:	Grant Type and Number	Federal FFY of Grant:
Whatcom County Housing Authority	Capital Fund Program Grant No: **WA19PO4150109** CFFP (Yes/No): **YES** Replacement Housing Factor Grant No:	**2009**

Development Number/ Name/ PHA-Wide	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised 1	Funds Obligated 1	Funds Expended 2	
41-2 Birches & Baycrest	Landscape / Site work	1450		$ 100.00	$ 100.00	$ -	$ -	
	Asphalt / Concrete	1450		$ 3,000.00	$ 3,000.00	$ -	$ -	
	Interior Paint	1460		$ 2,000.00	$ 2,000.00	$ -	$ -	
	Flooring	1460		$ 2,000.00	$ 2,000.00	$ -	$ -	
	Exterior Trim Paint	1460		$ -	$ -	$ -	$ -	
	Appliances	1465		$ 2,000.00	$ 2,000.00	$ -	$ -	
	Exterior Vinyl Siding	1460		$ 45,943.00	$ 45,943.00	$ 44,364.21	$ -	
				$ -	$ -	$ -	$ -	
41-11 SeaMist & Bay Townhomes	Landscape / Site work	1450		$ 108.00	$ 108.00	$ -	$ -	
	Interior Paint	1460		$ 108.00	$ 108.00	$ -	$ -	
	Exterior Paint	1460		$ 108.00	$ 108.00	$ -	$ -	
	Flooring	1460		$ 108.00	$ 108.00	$ -	$ -	
	Appliances	1465		$ 108.00	$ 108.00	$ -	$ -	
				$ -	$ -	$ -	$ -	
WCHA-Wide	Subsidies	1406		$ -	$ -	$ -	$ -	
	Operations	1406		$ 27,226.00	$ 27,226.00	$ 27,226.00	$ -	
	Youth Services (Boys and Girls Club)	1408		$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 2,842.76	
	Community Services (Police)	1408		$ 25,000.00	$ 25,000.00	$ 25,000.00	$ -	
	Computers Software	1408		$ 500.00	$ 485.90	$ -	$ 174.49	
	Computer Hardware	1408		$ 979.66	$ 979.66	$ 979.66	$ 979.66	
	Administrative Salaries	1410		$ 13,613.00	$ 13,613.00	$ 13,613.00	$ 4,114.18	
	Administrative Benefits	1410		$ -	$ -	$ -	$ -	
	Non-Tech Salaries	1430		$ 2,708.00	$ 2,708.00	$ 2,708.00	$ 587.98	
	A+E	1430		$ 500.00	$ 500.00	$ -	$ -	
	Office Equipment	1475		$ 20.34	$ 34.44	$ 34.44	$ 34.44	
	Grounds Equipment	1475		$ -	$ -	$ -	$ -	

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Whatcom County Housing Authority	Capital Fund Program Grant No: **WA19S04150109** Replacement Housing Factor Grant No:	**2009**
	Date of CFFP: _____	**FFY of Grant Approval:** **2009**

Type of Grant
__**Original Annual Statement** ___**Reserve for Disasters/Emergencies** ___**Revised Annual Statement (revision no:)**
_X_**Performance and Evaluation Report for Period Ending:** **3/31/2010** ___**Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost 1	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 20) [3]	$ -	-	$ -	$ -
3	1408 Management Improvements	$ 12,000.00	15,100.00	$ 15,100.00	$ 9,941.00
4	1410 Administration (may not exceed 10% of line 20)	$ 15,375.00	15,375.00	$ 15,375.00	$ 2,345.42
5	1411 Audit	$ -	-	$ -	$ -
6	1415 Liquidated Damages	$ -	-	$ -	$ -
7	1430 Fees and Costs	$ 3,000.00	3,000.00	$ 3,000.00	$ 1,601.24
8	1440 Site Acquisition	$ -	-	$ -	$ -
9	1450 Site Improvement	$ 300.00	-	$ -	$ -
10	1460 Dwelling Structures	$ 120,711.00	125,611.00	$ 125,611.00	$ 125,611.00
11	1465 Dwelling Equipment—Nonexpendable	$ 200.00	-	$ -	$ -
12	1470 Non-dwelling Structures	$ -	-	$ -	$ -
13	1475 Non-dwelling Equipment	$ 7,500.00	-	$ -	$ -
14	1485 Demolition	$ -	-	$ -	$ -
15	1492 Moving to Work Demonstration	$ -	-	$ -	$ -
16	1495.1 Relocation Costs	$ -	-	$ -	$ -
17	1499 Development Activities [4]	$ -	-	$ -	$ -
18a	1501 Collateralization or Debt Service paid by the PHA	$ -	-	$ -	$ -
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment	$ -	-	$ -	$ -
19	1502 Contingency (may not exceed 8% of line 20)	$ -	-	$ -	$ -
20	Amount of Annual Grant: (sum of lines 2 – 19)	**$ 159,086.00**	**$ 159,086.00**	**$ 159,086.00**	**$ 139,498.66**
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	Grant Type and Number	FFY of Grant:
Whatcom County Housing Authority	Capital Fund Program Grant No: WA19~~P~~S04150109 Replacement Housing Factor Grant No:	2009
	Date of CFFP:	FFY of Grant Approval: 2009

Type of Grant

__Original Annual Statement ___Reserve for Disasters/Emergencies ___Revised Annual Statement (revision no:)

_X_Performance and Evaluation Report for Period Ending: 3/31/2010 ___Final Performance and Evaluation Report

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost 1	
		Original	Revised [2]	Obligated	Expended

Signature of Executive Director	Date	Signature of Public Housing Director	Date
John E Harmon	4/23/2010		

Part II: Supporting Pages

PHA Name:	Grant Type and Number		Federal FFY of Grant:
Whatcom County Housing Authority	Capital Fund Program Grant No: **WA19P04150109** Replacement Housing Factor Grant No:	CFFP (Yes/No): **YES**	**2009**

Development Number/ Name/ PHA-Wide	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised 1	Funds Obligated 1	Funds Expended 2	
41-2 Birches & Baycrest	Landscape / Site work	1450		$ 100.00	$ -	$ -	$ -	
	Asphalt / Concrete	1450		$ 100.00	$ -	$ -	$ -	
	Interior Paint	1460		$ 100.00	$ -	$ -	$ -	
	Flooring	1460		$ 100.00	$ -	$ -	$ -	
	Exterior Paint	1460		$ 100.00	$ -	$ -	$ -	
	Appliances / Equipment	1465		$ 100.00	$ -	$ -	$ -	
	Building Envelope	1460		$ 120,111.00	$ 125,611.00	$ 125,611.00	$ 125,611.00	
41-11 SeaMist & Bay Townhomes	Landscape / Site work	1450		$ 100.00	$ -	$ -	$ -	
	Interior Paint	1460		$ 100.00	$ -	$ -	$ -	
	Exterior Paint	1460		$ 100.00	$ -	$ -	$ -	
	Flooring	1460		$ 100.00	$ -	$ -	$ -	
	Appliances / Equipment	1465		$ 100.00	$ -	$ -	$ -	
WCHA-Wide	Computer Software	1408		$ 12,000.00	$ 15,100.00	$ 15,100.00	$ 9,941.00	
	Computer Hardware	1475		$ 6,500.00	$ -	$ -	$ -	
	Administrative Salaries	1410		$ 11,827.00	$ 11,827.00	$ 11,827.00	$ 1,804.35	
	Administrative Benefits	1410		$ 3,548.00	$ 3,548.00	$ 3,548.00	$ 541.07	
	Non-Tech Salaries	1430		$ 2,308.00	$ 2,308.00	$ 2,308.00	$ 1,239.56	
	Non-Tech Benefits	1430		$ 692.00	$ 692.00	$ 692.00	$ 361.68	
	Office Equipment	1475		$ 500.00	$ -	$ -	$ -	
	Grounds Equipment	1475		$ 500.00	$ -	$ -	$ -	

Statement of Progress in Meeting the 5-Year Plan Mission and Goals revised for 2010

The following table reflects the progress we have made in achieving our goals and objectives:

Goal One: Expand the supply of assisted housing	
Objective	**Progress**
In 2009 WCHA will leverage private or other public funds for the purpose of preserving existing affordable housing owned and or controlled by WCHA. WCHA will apply for federal tax credits, and other financing mechanisms for recapitalizing these projects in 2010 and 2011. WCHA will search for new opportunities in providing low-income housing in the small cities and unincorporated areas of Whatcom County.	To be reported in 2011.
Goal Two: Improve the quality of assisted housing	
Objective	**Progress**
Increase customer satisfaction	WCHA held meetings with public housing residents for the purpose of getting more resident involvement in development of the agency annual plan and to discuss other important issues. WCHA entered into an agreement with the Birch Bay Food Pantry to provide on-site food distribution to low income families to help meet the needs of families in between dates and times that services are typically provided by the Blaine Food Bank.
Renovate or modernize public housing units	The WCHA is on track with the Capital Fund Program.
Goal Three: Provide an improved living environment	
Objective	**Progress**
Implement measures to deconcentrate poverty by bringing higher income public housing households into lower income developments	The WCHA will continue addressing deconcentration as outlined in PIH 2001-4.
Implement measures to promote income mixing in public housing by assuring access for lower income families into higher income developments	Ongoing.
Implement public housing security improvements	Ongoing.
Designate developments or buildings for	The WCHA continues consideration of

particular resident groups (elderly, persons with disabilities)	providing housing for special needs and other segments of the population that are in need of affordable housing.
Goal Four: Ensure equal opportunity and affirmatively further fair housing	
Objective	**Progress**
Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion national origin, sex, familial status, and disability	It is the policy of the Bellingham Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws; the Americans With Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity. No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Bellingham Housing Authority housing programs. To further its commitment to full compliance with applicable Civil Rights laws, the Bellingham Housing Authority will provide Federal/State/local information to applicants for and participants in the Section 8 Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the Bellingham Housing Authority office. In addition, all appropriate written information and advertisements will contain the appropriate Equal Opportunity language and logo. The Bellingham Housing Authority will assist any family that believes they have suffered illegal discrimination by providing them copies of the housing discrimination form. The Bellingham Housing Authority will also assist them in completing the form, if requested, and will provide them with the address of the

	nearest HUD Office of Fair Housing and Equal Opportunity.
Undertake affirmative measures to provide a suitable living environment for families living in assisted housing, regardless of race, color, religion national origin, sex, familial status, and disability	It is the policy of the Bellingham Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws; the Americans With Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity. No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Bellingham Housing Authority housing programs. To further its commitment to full compliance with applicable Civil Rights laws, the Bellingham Housing Authority will provide Federal/State/local information to applicants for and participants in the Section 8 Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the Bellingham Housing Authority office. In addition, all appropriate written information and advertisements will contain the appropriate Equal Opportunity language and logo. The Bellingham Housing Authority will assist any family that believes they have suffered illegal discrimination by providing them copies of the housing discrimination form. The Bellingham Housing Authority will also assist them in completing the form, if requested, and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.
Undertake affirmative measures to ensure	The WCHA will meet or exceed 504

accessible housing to persons with all varieties of disabilities regardless of unit size required	regulations.
Goal Five*:* Continue to manage the Whatcom County Housing Authority's existing public housing program in an efficient and effective manner, thereby qualifying as at least a standard performer under the Public Housing Assessment System (PHAS).	
Progress The WCHA was designated as a High Performer for FFY 2009.	
Goal Six: Maintain a minimum of Standard Performer for the Whatcom County Housing Authority	
Progress The WCHA is currently a High Performer.	
Goal Seven: Enhance the livability and marketability of the Whatcom County Housing Authority's public housing units for the elderly and families by using the 2009 CFP and funds provided by the 2009 ARRA Stimulus program.	
Progress The WCHA continues to enhance the marketability of the public housing units by promoting resident satisfaction and retention efforts. These efforts include but are not limited to upgrading resident dwelling units such as the replacement of the exterior siding and window at Bay Crest Homes using the HUD Capital Fund Program. WCHA also promoted resident on-site activities such as after school programs for children by providing the Boys and Girls Club of Blaine access to the community room to hold activities.	
Goal Eight: The Whatcom County Housing Authority shall maintain and enhance the physical security aspects of its buildings.	
Progress The WCHA made the residential homes at Bay Crest Homes more energy efficient by replacing the exterior windows and siding. WCHA also contracted with the Whatcom County Sheriff's Office to provide community policing which will make its neighborhoods safer.	

Definition of Substantial Deviation, Amendment or Modifications to the Plan.

A. "Substantial Deviation" from the 5-year Plan occurs when the Board of Commissioners decides to substantially change the mission statement, goals or objectives of the 5-year Plan. Any such substantial change will be subject to all the review and approval requirements of the original Agency Plan as per HUD regulations.

B. "Amendment or Modification" to the Annual Plan is defined as discretionary changes in the plans or policies of the housing authority that fundamentally change the plans of the agency in which case requires approval of the Executive Director and or the Board of Commissioners. HUD regulations, changes, mandates and funding shall also be considered "Amendments or Modifications" to the annual plan.

RESIDENT MEMBER ON THE PHA GOVERNING BOARD

1. ☒ Yes ☐ No: Does the PHA governing board include at least one member who is directly assisted by the PHA this year? (if no, skip to #2)

A. Name of resident member(s) on the governing board: Barbara Plaskett.

B. How was the resident board member selected: (select one)?
☐ Elected
☒ Appointed

C. The term of appointment is (include the date term expires): 5 year term to expire April 18, 2010. Reappointed to a second term that will expire April 18, 2014.

2. If the PHA governing board does not have at least one member who is directly assisted by the PHA, why not?

☐ the PHA is located in a State that requires the members of a governing board to be salaried and serve on a full time basis
☐ the PHA has less than 300 public housing units, has provided reasonable notice to the resident advisory board of the opportunity to serve on the governing board, and has not been notified by any resident of their interest to participate in the Board.
☐ Other (explain):

B. Date of next term expiration of a governing board member: April 18, 2011.

C. Name and title of appointing official(s) for governing board (indicate appointing official for the next position): County Executive, Pete Kremen

Management Fee Calculations
For Whatcom County Housing Authority

The Whatcom County Housing Authority has the option to obtain management fees under either the HUD Model or a market determined fee based on analysis from firms in the industry.

Management Fee 3-Year Phase In
For Whatcom County Housing Authority

The Whatcom County Housing Authority shall extend the phase in of the public housing management fee through the year 2011 in accordance with PIH Notice 2007-9 issued April 6, 2007.

Component 10 (B) Voluntary Conversion Initial Assessments

1. How many of the PHA's developments are subject to the Required Initial Assessments?
   2 Developments

2. How many of the PHA's developments are not subject to the Required Initial Assessments based on exemptions (e.g., elderly and/or disabled developments not general occupancy projects)? 0 Developments

3. How many Assessments were conducted for the PHA's covered developments?
   0 Assessments

4. Identify PHA developments that may be appropriate for conversion based on the Required Initial Assessments:

Development Name	Number of Units

If the PHA has not completed the Required Initial Assessments, describe the status of these assessments: All assessments are complete.

ATTACHMENT 11: (wa04111)

Disposition of Public Housing
For Whatcom County Housing Authority

After a feasibility study is performed and to the extent the Whatcom County Housing Authority's Board of Commissioners deems appropriate and in conformance with HUD regulations, it may plan to dispose of or refinance its Public Housing units.

Deconcentration and Income Mixing

a. ☒ Yes ☐ No — Does the PHA have any general occupancy (family) public housing developments covered by the deconcentration rule? If no, this section is complete. If yes, continue to the next question.

b. ☐ Yes ☒ No — Do any of these covered developments have average incomes above 85% to 115% of the average incomes of all such developments? If no, this section is complete.

If yes, list these developments as follows:

Deconcentration Policy for Covered Developments			
Development Name	**Number of Units**	**Explanation (if any) [see step 4 at 903.2(c)(1)(iv)]**	**Deconcentration Policy (if no explanation) [see step 5 at 903.2(c)(1)(v)]**

ATTACHMENT 13: (wa04113)

HOUSING AUTHORITY OF WHATCOM COUNTY
RESIDENT ASSESMENT SUB-SYSTEM (RASS)
FOLLOW-UP PLAN

JANUARY 1, 2010

The following is the plan the Housing Authority of the CITY OF BELLINGHAM (BHA) will take in addressing the RASS scores it received for the fiscal year ending 09/30/08 RASS

Communications:

BHA's action plan to increase the level of effectiveness of BHA and resident communications is to provide BHA residents with an informational monthly newsletter that will include upcoming activities and program changes at BHA and HUD.

Conduct residents' community meetings bi-annually to discuss resident concerns, agency goals and gather resident input.

ATTACHMENT 14: (wa04114)

Comments of Resident Advisory Board or Boards
For Whatcom County Housing Authority

- There were no comments.

HOUSING AUTHORITY OF THE CITY OF BELLINGHAM/WHATCOM COUNTY
208 UNITY STREET, BELLINGHAM, WA 98225

THIS LEASE IS IN TWO PARTS:

Part I is the lease contract. This is executed by the resident and the BWCHA and includes Part II Terms and Conditions (by reference).

Part II establishes the Terms and Conditions of the lease. These apply to all residents.

LEASE AGREEMENT: PART I

RESIDENT/TENANT NAME _____
ADDRESS _____ **UNIT NO.** _____
PROJECT NO. _____ **UNIT SIZE** ____ **Bedroom**
Effective Date of Agreement _____ Annual Review Date _____
Initial Rent ____ Security Deposit ____

Held at:

Monthly Tenant Rent	_____
Extra Monthly Charges	_____
TV Cable	_____
Other	_____
Total Monthly Payments	_____

*Excess utility charges are due and collectable beginning the first day of _____ and each month thereafter

Utilities Include: Electricity ☐ Gas ☐ Garbage ☐

Other occupants/tenants: .

Total number of Adults: Children: .

Occupancy is restricted to the above-named occupants/tenants. Each Tenant is individually and jointly liable for performance of the terms of this agreement.

Consent of the landlord is required to increase the number of occupants/tenants. Any guest staying more than 14 continuous days or more than 21 days in a year is an unauthorized occupant.

The HOUSING AUTHORITY OF THE CITY OF BELLINGHAM or the HOUSING AUTHORITY OF WHATCOM COUNTY (BWCHA), as applicable, and those persons named above (Resident or Tenant) agree that:

1. BWCHA has relied upon the representations and statements made by the Resident as to Resident's income, household composition and housing need in his/her signed application. Resident hereby agrees to rent from BWCHA the dwelling unit indicated above, according to the terms and conditions attached to this agreement or posted on the property, and the BWCHA Admission and Continued Occupancy Policy which are incorporated by reference.

2. HOUSEHOLD COMPOSITION: The only persons who will occupy the dwelling unit are listed on this Lease agreement and the Certification/Recertification of Tenant Eligibility.

3. TERM: The term of this lease shall be one calendar year, and automatically renewed annually for additional one year terms except as otherwise provided in the Lease.

4. RENT Initial rent (prorated for partial month) shall be $.__ and, if applicable, the Resident shall receive the benefit of $.__ from BWCHA for Utility Reimbursement (for partial month) paid to the utility supplier for the period beginning ___/___/___ and ending at midnight on ___/___/___.

Thereafter, rent in the amount of $ _____per month shall be payable in advance on the first day of each month, and shall be delinquent after the fifth (5th) day of said month. A utility reimbursement of $ _____per month (if applicable) shall be paid to the utility supplier by BWCHA for the Resident. [966.4 (b)(1)][1]

☐ This is the flat rent for the Premises OR

☐ This rent is based on the income and other information reported by the Resident and will be adjusted by BWCHA or HUD requirements.

5. UTILITY ALLOWANCES: Resident-Paid Utilities [5.632] If indicated by an (X) below, BWCHA shall provide Resident with a Utility Allowance in the monthly amount totaling $ _____ for the following utilities paid directly by the Resident to the Utility supplier:

( ) Electricity ( ) Gas ( ) Heat ( ) Water ( ) Sewerage ( ) Trash removal ( )

Any other utility charges are the responsibility of the resident, including but not limited to .

6. NO WAIVER: Acceptance of payment of rent does not constitute waiver of any non-complying condition, including but not limited to: late payment, partial payment, breach of agreement or any condition for which a notice to comply has been given.

[1] Numbers in brackets [ ] refer to 24 C.F.R.§966.4

7. Smoke Alarm Notification/Release (RCW 48.48.140) Resident agrees that they have personally inspected the smoke alarm in the unit, which is provided according to Washington State Law RCW 48.48.140 and find it to be in working order. Resident understands that the Landlord-Tenant Law of the State of Washington requires the tenant to maintain the alarm and keep fresh batteries in the mechanism and that failure to do so absolves the Landlord, or Agent from any responsibility for losses due to my/our noncompliance with the law or malfunction of the alarm. I/we further understand that failure to comply may result in a fine of not more than $200.00.

The RESIDENT HAS CERTIFIED THAT HE/SHE HAS RECEIVED A COPY OF THIS LEASE AGREEMENT which consists of the foregoing and Part II, together with those policies and Addendums referenced therein and incorporated by reference, and the attachments listed below:

☐ Attachment No. 1 "Certification and Recertification of Tenant Eligibility" (50058)
☐ Attachment No. 2 Unit Inspection Report
☐ Attachment No. 3 Mold Addendum
☐ Attachment No. 4 Supplemental Agreement (Check if applicable)
☐ Attachment No. 5 Pet Agreement (check if applicable)
☐ Attachment No. 6 Addendum for ACOP Inclusion
☐ Attachment No. 7 Lead Hazard Information Packet
☐ Attachment No. 8 Lead Disclosure Addendum
☐ Attachment No. 9 Drug Free Addendum

TENANT'S CERTIFICATION

I, hereby certify that I, and other members of my Household, have not committed any fraud in connection with any federal housing assistance program , unless such fraud was fully disclosed to BWCHA before execution of the lease, or before BHA approval for occupancy of the unit by the Household member.

I further certify that all information or documentation submitted by myself or other Household members to BWCHA in connection with any federal housing assistance program (before and during the lease term) are true and complete to the best of my knowledge and belief.

RESIDENT: _____

RESIDENT: _____

DATE: _____

HOUSING AUTHORITY OF

☐ **THE CITY OF BELLINGHAM**

☐ **WHATCOM COUNTY**

BY: _____

HOUSING AUTHORITY OF THE CITY OF BELLINGHAM/WHATCOM COUNTY
208 UNITY STREET, BELLINGHAM, WA 98225

LEASE AGREEMENT: PART II

THIS LEASE IS IN TWO PARTS:

Part I is the lease contract. This is executed by the resident and the BWCHA and includes Part II Terms and Conditions (by reference)

Part II establishes the Terms and Conditions of the lease. These apply to all residents. The terms and conditions of this agreement are controlled by 24 C.F.R. §966.4 et seq., now in existence or as subsequently amended. You can find the CFRs at www.access.gpo.gov

THIS LEASE AGREEMENT (called the "Lease") is between the Bellingham/Whatcom Housing Authorities (called "BWCHA") and Resident/Tenant/Occupants named in Part I of this lease (called "Resident"). [966.4 (a)]

I. Description of the Parties and Premises: [966.4 (a)]

A. BWCHA, using data provided by Resident about income, family composition, and needs, leases to Resident the property (called premises or dwelling unit) described in Part I of this Lease Agreement, subject to the terms and conditions in this lease. [966.4 (a)]

B. Premises must be used as the only private residence of the Resident and the family members listed in the lease or on the Certification/Recertification of Eligibility.

C. Any additions to the household members named on the lease, including Live-in Aides and foster children, but excluding natural births, adoptions, and court awarded custody, require the advance written approval of BWCHA. Such approval will be granted only if the new family members pass BWCHA's screening criteria and a unit of the appropriate size is available. Permission to add Live-in Aides and foster children shall not be unreasonably refused. [966.4(a)(2) & (d)(3)(i)] Resident must wait for BWCHA's approval before allowing additional persons to move into the Premises. Failure on the part of Resident to comply with this provision is a serious violation of the material terms of the lease, for which BWCHA may terminate the lease [966.4 (f)(3)]

D. Resident shall report deletions (for any reason) from the household members named on the lease to BWCHA in writing, within 10 days of the occurrence. [966.4 (c)(1) & (2) & (f)(3)]

II. Lease and Amount of Rent

A. **Rent is DUE and PAYABLE in advance on the first day of each month** and shall be considered delinquent after the fifth calendar day of the month. As a safety measure, no cash will be accepted for payment of rent.

B. Unless otherwise modified or terminated in accordance with this Lease or HUD regulations, tenancy is for one year and will automatically be renewed for successive terms of one calendar year. [966.4(a)(1)]

C. The rent amount is stated in Part I of this Lease. Rent shall remain in effect unless adjusted by BWCHA in accordance with this agreement and HUD regulations. Regular redeterminations will occur at annual renewal and interim redeterminations will occur whenever BWCHA has reason to believe there has been a change in the household circumstances. [966.4(c)]

The amount of the Total Resident Payment and Resident Rent shall be determined by the BWCHA in compliance with HUD regulations and requirements and in accordance with BWCHA's Admissions and Occupancy Policy. [966.4 (c)]

At the time of admission or at re-certification, the Resident may choose to have their rent based on the **flat** rent set by BWCHA or on the income and other information (**formula method)** supplied by the resident.

If the household circumstances change, the Resident agrees to transfer to another unit at the request of BWCHA.

D. Rent may include utilities as described in this agreement, and includes maintenance services as required by this agreement or the Washington Residential Landlord Tenant Act at RCW 59.18. [966.4 (e)(1) - (7)]

When BWCHA makes any change in the amount of Total Resident Payment or Resident Rent, BWCHA shall give written notice to Resident. The notice shall state the new amount, and the date from which the new amount is applicable. Rent redeterminations are subject to the Administrative Grievance Procedure. The notice shall also state that Resident may ask for an explanation of how the amount is computed by BWCHA. If Resident asks for an explanation, BWCHA shall respond in a reasonable time. [966.4 (c)(4)]

III. Other Charges: In addition to rent, Resident is responsible for the payment of certain other charges specified in this lease. Other charges can include: [966.4 (b)(2)]

A. Maintenance costs -- The cost for services or repairs due to intentional or negligent damage to the dwelling unit, common areas or grounds beyond normal wear and tear, caused by Resident, household members or by guests. When BWCHA determines that needed maintenance is not caused by normal wear and tear, Resident shall be charged for the cost of such service, either in accordance with the Schedule of Maintenance Charges as adopted by BWCHA or (for work not listed on the Schedule of Maintenance Charges) based on the actual cost to BWCHA for the labor and materials needed to complete the work and if overtime work is required, overtime rates shall be charged. [966.4 (b)(2)]

B. Late Charges--The Resident shall pay the monthly rent on or before the 5th of the month, plus any extra charges due under this or any other agreement. If the Resident does not pay the full amount of the rent by the end of the 5th day of the month, the BWCHA may collect a fee of $10.00 on the 6th day of the month. A $15.00 late processing fee will be assessed to residents who receive Notices to pay-or-vacate or a Notice to comply-or-vacate. If the 5th of any month falls on a weekend or holiday the late fees for non-payment of rent will be assessed on the next business day. If Resident pays with a check returned for insufficient funds, future payments must be made with a money order or cashier's check.

C. Charges for damages (anything beyond normal wear and tear) caused by the Resident, household members or any guests and charges for late payment of rent are due two weeks after Notice of the charges.

D. If rent is paid by a personal check and the check is returned for insufficient funds, this shall be considered a non-payment of rent and will incur the late charge plus an additional charge of $15.00 for processing costs.

IV. Payments by Resident will be applied in the following order:

1. Resident's security deposit;
2. Any maintenance, utilities, and legal costs;
3. Any late fees incurred by the Resident; and lastly
4. Any unpaid rent owed by Resident.

V. Payment Location: Rent and other charges can be paid at the BWCHA or at a location otherwise specified by the BWCHA. Reasonable accommodations for this requirement will be made for persons with disabilities [966.4 (b)(4)]

VII. Security Deposit

A. Resident Responsibilities: Resident agrees to pay an amount equal to $_____ or one month's Total Resident Payment. The dollar amount of the security deposit is noted on Part I of this Residential Lease. [966.4 (b)(5)]

B. Resident does NOT have the right to apply the security and damage deposit to payment of the last month's rent. Deposit funds may be used at Landlord's discretion to repair damages caused by Tenant and to pay for any other costs, rent or fees incurred during or upon the termination of the Agreement.

C. BWCHA's Responsibilities: BWCHA will use the Security Deposit at the termination of this Lease:

1. To pay the cost of any rent or any other charges owed by Resident at the termination of this lease, including all cost for maintenance and repairs, including without limitation unpaid utilities.

2. To reimburse the cost of repairing any intentional or negligent damages to the dwelling unit caused by Resident, household members or guests. No refund of the Security Deposit will be made until Resident has vacated, and BWCHA has inspected the dwelling unit.

3. The return of a security deposit shall occur within 14 days after Resident moves out or the BWCHA has learned of abandonment. If any deductions are made, BWCHA will furnish Resident with a written statement of any such costs for damages and/or other charges deducted from the Security Deposit.

4. If the Resident or Resident’s estate disputes the deducted charges, the Resident or Resident’s estate shall first file a grievance pursuant to BWCHA procedures prior to the commencement of any action in court.

VIII. Utilities and Appliances

A. Resident shall pay for all utilities not furnished by the BWCHA, and shall pay for all other utilities or services received by the Resident.

B. Resident may receive an allowance for utilities not furnished by the BWCHA and is responsible for payment of such utilities from the effective date of this Agreement until the legal termination date. BWCHA may change the Allowance at any time during the term of the lease, and shall give Resident 60 days written notice of the revised Allowance along with any resultant changes in Resident Rent or Utility Reimbursement. Resident will be given a thirty (30) day period to comment on the proposed revisions. [965.473 (c)]

C. Where heat is to be supplied by the Resident, the Resident agrees to furnish heat sufficient to prevent damage to the premises. If, for any reason, the Resident is unable to maintain sufficient heat, Resident shall immediately notify the BWCHA. Resident shall pay for any damages to the unit resulting from Resident’s failure to maintain sufficient heat or failure to notify the BWCHA of the lack of sufficient heat due to any cause beyond the Resident’s control. Written notice of such charges shall contain the Resident’s right to a grievance hearing. Charges assessed shall become due and collectable two (2) weeks from the date the notice is mailed to the Resident.

D. If Resident's actual utility bill exceeds the Allowance for Utilities, Resident shall be responsible for paying the actual bill to the supplier. If Resident's actual utility bill is LESS than the Allowance for Utilities, Resident shall receive the benefit of such saving.

E. Resident Responsibilities: Resident agrees not to waste the utilities provided by BWCHA and to comply with any applicable law, regulation, or guideline of any governmental entity regulating utilities or fuels. [966.4 (f)(8)]

F. Resident agrees to abide by any local ordinance or House Rules restricting or prohibiting the use of space heaters.

G. BWCHA will not be responsible for failure to furnish utilities because of any cause beyond its control.

IX. Terms and Conditions: The following terms and conditions of occupancy are made a part of the Lease.

A. Use and Occupancy of Dwelling: Resident shall have the right to exclusive use and occupancy of the dwelling unit for Resident and other household members listed on the lease.

This provision permits reasonable accommodation of Resident's guests or visitors for a period not exceeding fourteen (14) continuous days each year, not to exceed a total of 21 days. Permission may be granted, upon written request to the Manager, for an extension of this provision. [966.4 (d)(1)]

B. Ability to comply with Lease terms: If, during the term of this Lease, Resident, by reason of physical or mental impairment is no longer able to comply with the material provisions of this lease, and cannot make arrangements for someone to aid him/her in complying with the lease, and BWCHA cannot make any reasonable accommodation that would enable Resident to comply with the lease, then BWCHA may terminate the lease agreement, but shall assist Resident, or designated member(s) of Resident's family, to find more suitable housing and move Resident from the dwelling unit. If there are no family members who can or will take responsibility for moving Resident, BWCHA will work with appropriate agencies to secure suitable housing.

At the time of admission, all Residents must identify the family member(s) to be contacted if they become unable to comply with lease terms.

C. Redetermination of Rent, Dwelling Size, and Eligibility. The rent amount as fixed in the Lease Agreement is due each month until:

1. The status of each family is re-examined at least once a year. Residents paying Flat Rent shall have their incomes reexamined every three years. BWCHA shall notify Resident of the date of the recertification.

   At the annual recertification, Resident shall certify to compliance with any community service or participation in an economic self-sufficiency program requirement, if applicable. [966.4(a)(2)(ii)]

2. Resident promises to supply BWCHA, when requested, with accurate information about: family composition, age of family members, income and source of income of all family members, assets, community service activities, and related information necessary to determine eligibility, annual income, adjusted income, and rent. The Resident shall have the continuing obligation to advise BWCHA of any change in circumstances relating to any information required to be provided, including income. [966.4 (c)(2)]

   Failure to supply such information when requested is a serious violation of the terms of the lease and BWCHA may terminate the lease.

   All information must be verified. Resident agrees to comply with BWCHA requests for verification by signing releases for third-party sources, presenting documents for review, or providing other suitable forms of verification. [966.4 (c)(2)]

   BWCHA shall give Resident reasonable notice of what actions Resident must take, and of the date by which any such action must be taken for compliance under this section. This information will be used by BWCHA to decide whether the amount of the rent should be changed, and whether the dwelling size is still appropriate for Resident's needs.

   This determination will be made in accordance with the Admissions and Continued Occupancy Policy, which is publicly posted in the BWCHA Office. A copy of the policies can be furnished on request at the expense of the person making the request.

3. Rent will not change during the period between regular re-examinations, UNLESS during such period: [960.209 (b)]

   a) Resident can verify a change in his/her circumstances, as required by the Admission and Continued Occupancy Policy (such as decline in or loss of income) that would justify a reduction in rent, except that rent shall not be reduced because a Resident's TANF grant is reduced because Resident committed welfare fraud or failed to comply with a welfare department economic self sufficiency requirement.

      Any reduction of rent based on a loss of income will be done in accordance with the Admissions and Occupancy Policy.

      If a reduction is granted, Resident must report subsequent increases in income within 10 days of the occurrence, until the next scheduled re-examination. (Failure to report within the 10 days may result in a retroactive rent charge.)

   b) If it is found that Resident has misrepresented the facts upon which the rent is based so that the rent Resident is paying is less than the rent that he/she should have been charged. BWCHA then may apply an increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred. The sum will be due and payable immediately.

   c) Rent formulas or procedures are changed by Federal law or regulation.

   d) An adjustment is made in the utility allowance.

4. All changes in family composition must be reported to the Housing Manager within 10 days of the occurrence. Failure to report within the 10 days may result in a retroactive rent charge. [966.4 (c)(2)]

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

5. The misrepresentation by a Resident of any information required to be provided herein shall be a material breach of the lease.

D. Rent Adjustments: Resident will be notified in writing of any rent adjustment and the notice will state the effective date of the rent adjustment.

1. BWCHA shall give the Resident thirty (30) days advance notice of a rent increase. The effective date of such increase shall be the first day of the month following the end of the 30 day period, except for an increase due to a change in utility allowance.

2. In the case of a rent decrease, the adjustment will become effective on the first day of the month following the reported change in circumstances, except for a decrease due to a change in utility allowance, provided Resident reported the change in a timely manner.

3. For changes in rent due to utility allowance revisions, unless otherwise directed by Board of Commissioners, the change shall become effective the first day of the month following the date of adoption of the utility allowances by the Board of Commissioners. Residents shall receive at least sixty (60) days advance notice of any utility allowance revision and be given a thirty (30) day period to comment on the proposed revisions.

4. In the case of a rent increase, when an increase in income occurs after a prior rent reduction and is reported within 10 calendar days of the occurrence, the increase will become effective the first day of the 2nd month following the month in which the change was reported.

5. In the case of a rent increase due to misrepresentation, failure to report a change in family composition, or failure to report an increase in income (after a reduction in rent per the fixed rent policy), BWCHA shall apply the increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred.

E. Transfers [966.4 (c)(3)]

1. Resident agrees that if BWCHA determines that the size or design of the dwelling unit is no longer appropriate to Resident's needs, BWCHA shall send Resident written notice. Resident further agrees to accept a new lease for a different dwelling unit of the appropriate size or design.

2. BWCHA may move a Resident into another unit if it is determined necessary to rehabilitate or demolish Resident's unit.

3. If a Resident makes a written request for special unit features in support of a documented disability, BWCHA will attempt to modify Resident's existing unit. If the cost and extent of the modifications needed are tantamount to those required for a fully accessible unit, BWCHA will place Resident on a transfer list to transfer to the next available unit with the features requested.

4. A Resident without disabilities that is housed in a unit with special features must transfer to a unit without such features should a Resident with disabilities need the unit.

5. In the case of involuntary transfers, Resident shall be required to move into the dwelling unit made available by BWCHA. Resident shall be given 15 days in which to move following delivery of a transfer notice. If Resident refuses to move, BWCHA may terminate the Lease. [966.4 (c)(3)]

6. Involuntary transfers are subject to the Grievance Procedure, and no such transfers may be made until either the time to request a Grievance has expired or the procedure has been completed. [966.4 (c)(4)] If a Resident receives a notice regarding a transfer to another unit, then she or he may request an explanation that states the specific grounds for the BWCHA determination.

7. BWCHA will consider any Resident requests for transfers in accordance with the transfer priorities established in the Admissions and Occupancy Policies.

X. BWCHA Obligations [966.4 (e)]: BWCHA shall be obligated:

A. To maintain the dwelling unit and the project in decent, safe and sanitary condition; [966.4 (e)(1)]

B. To comply with the requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety; [966.4 (e)(2)]

C. To make necessary repairs to the dwelling unit; [966.4 (e)(3)]

D. To keep project building, facilities, and common areas, not otherwise assigned to Resident for maintenance and upkeep, in a clean and safe condition; [966.4 (e)(4)]

E. To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators supplied or required to be supplied with BWCHA; [966.4 (e)(5)]

F. To provide and maintain appropriate receptacles and facilities (except container for the exclusive use of an

individual Resident family) for the deposit of garbage, rubbish, and other waste removed from the premise by Resident as required by this Lease; [966.4 (e)(6)]

G. To supply running water and reasonable amounts of hot water and reasonable amount of heat at appropriate times of the year according to local custom and usage; EXCEPT where the building that includes the dwelling unit is not required to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of Resident and supplied by a direct utility connection; [966.4 (e)(7)]

H. To notify Resident of the specific grounds for any proposed adverse action by BWCHA. (Such adverse action includes, but is not limited to: a proposed lease termination, transfer of Resident to another unit, change in amount of rent, or imposition of charges for maintenance and repair, or for excess consumption of utilities.)

1. The Notice of the proposed adverse action shall inform Resident of any right to request a grievance hearing.

2. Except in the case of a proposed lease termination, BWCHA shall not take the proposed action until time to request such a hearing has expired or (if hearing was timely requested) the grievance process has been completed. [966.4 (e)(8)]

XI. Resident's Obligations:

The Resident shall comply with all rules and regulations now established or hereafter adopted or modified by BWCHA which include, but are not limited to the House Rules, the Admissions and Continued Occupancy Policy and the Resident Responsibilities**.** The Resident has the duty and obligation under this lease to comply with the following, the breach of which shall constitute a material breach of the lease:

A. Not to assign the Lease, nor sublease the dwelling unit. [966.4(f)(1)]

B. Not to give accommodation to boarders or lodgers; [966.4 f)(2)]

C. Not to give accommodation to long term guests (in excess of 14 consecutive days and 21 days per year) without the advance written consent of BWCHA.

D. To use the dwelling unit solely as a private dwelling for Resident and Resident's household and not to use or permit its use for any other purpose. [966.4 (f)(3)]

This provision does not exclude the care of foster children or live-in care of a member of Resident's family, provided the accommodation of such persons conforms to BWCHA's Occupancy standards, and so long as BWCHA has granted prior written approval for the foster child(ren), or live-in aide to reside in the unit. [966.4 (d)((3)(i)]

E. To abide by necessary and reasonable regulations and the Admissions and Occupancy Policy promulgated by BWCHA for the benefit and well-being of the housing project and Residents. These regulations are posted in a conspicuous manner in the project office and incorporated by reference in this Lease. Violation of any regulation constitutes a violation of the Lease. [966.4 (f)(4)]

F. To comply with the requirements of applicable state and local building or housing codes, materially affecting health and/or safety of Resident and household. [966.4(f)(5)]

G. To keep the premises, dwelling equipment furnished by the BWCHA for the Resident’s use, and such other areas as may be assigned to the Resident for his/her exclusive use in a clean, orderly, safe condition. This shall include, but is not limited to, cleaning drapes, windows, walls, floors, but is not limited to cleaning drapes, windows, walls, floors, cabinets, refrigerators, ranges and ovens; watering and mowing lawn areas; watering trees and shrubs; and keeping any assigned yard area neat and clean. A description of any yard area for which the Resident is responsible to maintain is furnished with this lease, where applicable. This includes keeping front and rear entrances and walkways for the exclusive use of Resident, free from hazards and trash and keeping the yard free of debris and

litter. [966.4(f)(6)]

H. To dispose of all garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner only in containers approved or provided by BWCHA. To refrain from, and cause members of Resident's household or guest to refrain from, littering or leaving trash and debris in common areas. [966.4(f)(7)]

I. To use only in reasonable manner all electrical, sanitary, heating, ventilating, air-conditioning, and other facilities and appurtenances including elevators. and shall not use any apparatus for heating except that provided by the BWCHA without prior written consent of BWCHA [966.4(f)(8)]

J. To refrain from, and to cause household members and guests to refrain from destroying, defacing, damaging, or removing any part of dwelling unit or project. [966.4 (f)(9)]

K. To pay reasonable charges for all damages to the premises and/or equipment furnished with the unit (other than for normal wear and tear), caused by Resident, household members or guests. To pay reasonable charges for damage to the project buildings, facilities or common areas negligently or intentionally caused by the Resident, Resident's household or guests. Charges to be made according to the current schedule of charges included in the Admission and Continued Occupancy Policy posted in the BWCHA office. Payment of all such charges shall become due and collectable two weeks after notice of the charges; [966.4(f)(10)]

L. To act, and cause household members or guests to act in a manner that will:

1. Not disturb other residents' peaceful enjoyment of their accommodations; and

2. Be conducive to maintaining all BWCHA projects in a decent, safe, and sanitary condition. [966.4 (f)(11)]

M. To assure that Resident, any member of the household, a guest, or another person under Resident's control, shall not engage in:

1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of BWCHA's public housing premises by other residents or employees of BWCHA, or;

2. Any drug-related criminal activity, including simple possession, on or off the premises or property shall be cause for termination of tenancy, and for eviction from the unit. (For the purposes of this lease, the term drug-related criminal activity means the illegal possession, manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined in Section 102 of the Controlled Substances Act.) This includes but is not limited to the manufacture of methamphetamine on the premises of the BWCHA;

3. Abuse or pattern of abuse of alcohol affecting the right of peaceful enjoyment of the premises;

4. Any criminal activity or activity that would be considered a crime on the property or the premises. [966.4 (f)(12)]

N. To make no alterations or repairs or redecorations to the interior of the dwelling unit or to the equipment, nor to install additional equipment or major appliances without written consent of BWCHA. To make no changes to locks or install new locks on exterior doors without BWCHA's written approval. To use no nails, tacks, screws, brackets, or fasteners on any part of the dwelling unit (a reasonable number of picture hangers excepted) without authorization by BWCHA. To not apply wallpaper or paint of any kind without the prior written approval of the BWCHA.

O. To not have a waterbed(s) in the dwelling unit.

P. To give prompt prior notice to BWCHA of Resident's leaving dwelling unit unoccupied for any period

exceeding one calendar week.

Q. To act in a cooperative manner with neighbors and BWCHA Staff. To refrain from and cause members of Resident's household or guests to refrain from acting or speaking in an abusive or threatening manner toward neighbors and BWCHA staff.

R. To not display, use, or possess or allow members of Resident's household or guests to display, use or possess any illegal firearms, (operable or inoperable) or other illegal weapons as defined by the laws and courts of the State of Washington, or discharge any pellet gun, BB gun, slingshot, bow and arrow, or any other instrument or device capable of launching a projectile of any type anywhere on the property of BWCHA.

S. To take reasonable precautions to prevent fires and to refrain from storing or keeping highly volatile or flammable materials upon the premises, except in approved containers.

T. To only use Barbecues and Grills within designated common areas. Use of Barbecues and Grills in or outside of a unit other than designated common areas, is prohibited and constitutes a material breach of the lease.

U. To avoid obstructing sidewalks, areaways, galleries, passages, elevators, or stairs, and to avoid using these for purposes other than going in and out of the dwelling unit.

V. To refrain from erecting or hanging radio or television antennas on or from any part of the dwelling unit, except that roof antennas may be installed in accordance with regulations set forth by BWCHA with the written approval of BWCHA.

W. To refrain from placing signs, placards or banners of any type in or about the dwelling except those allowed under applicable zoning ordinances and then only after having received written permission of BWCHA.

X. To not store household or personal property outside the dwelling unit, other than in designated storage facilities, without the prior written permission of the BWCHA and any such items are stored at the sole risk of the Resident;

Y. To refrain from, and cause members of Resident's household, to refrain from keeping, maintaining, harboring, or boarding any animal of any nature in the dwelling unit except in accordance with the BWCHA's pet policy. Residents shall not keep cats, dogs, rodents, reptiles, or other pets in family housing complexes, in a manner inconsistent with the Pet Policies contained in the Admission and Occupancy Policy. Any Tenant or Resident keeping a pet of any kind for any reason, shall, in addition to complying with the Pet Policy, sign a Pet Agreement prior to the Pet being allowed on the Premises.;

Z. To park operable, passenger vehicles validly licensed in the name of the Resident only in designated areas and shall not allow guests to park in a manner which prohibits other residents from access to designated areas closest to their dwelling units. Residents shall only be allowed to park one (1) vehicle on-site, however, additional vehicles may be approved by the BWCHA pursuant to the Admission and Continued Occupancy Policy. Trailers, boats, commercial vehicles, recreational vehicles, truck campers and inoperable, unlicensed or vehicles with expired registration or disabled passenger vehicles of any kind shall not be parked on the premises, common areas or street without prior approval of the BWCHA. Any vehicle on the premises in violation of these or other policies as set forth in the Admission and Continued Occupancy Policy will be removed from BWCHA property at Resident's expense. Automobile repairs are not permitted on the project site.

AA. To clean the premises and all equipment supplied to the premises during tenancy (including drapes, blinds, appliances and carpet, where furnished) immediately prior to vacating and shall return the premises to the BHA/WCHA in as clean and sanitary condition as when the Resident took possession;

BB. To remove any personal property left on BWCHA property when Resident leaves, abandons or surrenders the dwelling unit. Property left for more than 45 days shall be considered abandoned and will be disposed of by BWCHA. Costs for storage and disposal shall be assessed against the former Resident.

CC. To use reasonable care to keep his dwelling unit in such condition as to ensure proper health and sanitation standards for Resident, household members and neighbors. **RESIDENT SHALL NOTIFY THE AUTHORITY PROMPTLY OF KNOWN NEED FOR REPAIRS TO HIS DWELLING UNIT**, and of known unsafe or unsanitary conditions in the dwelling unit or in common areas and grounds of the Project. Resident's failure to report the need for repairs in a timely manner shall be considered to contribute to any damage that occurs.

DD. Smoking - Resident shall pay reasonable charges for all damages to the premises caused by smoking.

EE. Fraud: Resident agrees to

1. Not to commit any fraud in connection with any Federal housing assistance program, and

2. Not to receive assistance for occupancy of any other unit assisted under any Federal housing assistance program during the term of the lease.

FF. To pay promptly any utility bills for utilities supplied to Resident by a direct connection to the utility company, and to avoid disconnection of utility service for such utilities.

GG. For each adult in the Resident household to perform at least 8 hours per month of qualifying community service (as specified by the BWCHA) unless the requirement is waived due to age, disability, or the fact that an adult is excused from this requirement because he/she is working, attending an educational institution, or participating in some other qualified training program.

XII. Defects Hazardous to Life, Health or Safety: In the event that the dwelling unit is damaged to the extent that conditions are created that are hazardous to the life, health, or safety of the occupants: [966.4 (h)]

BWCHA Responsibilities:

A. BWCHA shall be responsible for repair of the unit within a reasonable period of time after receiving notice from Resident, provided, if the damage was caused by Resident, household members, or guests, the reasonable cost of the repairs shall be charged to Resident. [966.4 (h)(2)]

B. BWCHA shall offer Resident a replacement dwelling unit, if available, if necessary repairs cannot be made within a reasonable time. BWCHA is not required to offer Resident a replacement unit if Resident, household members, or guests caused the hazardous condition. [966.4 (h)(3)]

C. <u>Resident shall accept any replacement unit offered by BWCHA.</u>

D. In the event BWCHA, as described above cannot make repairs, and alternative accommodations are unavailable, then rent shall abate in proportion to the seriousness of the damage and loss in value as a dwelling. No abatement of rent shall occur if Resident rejects alternative accommodations or if Resident, household members, or guests caused the damage. [966.4 (h)(4)]

E. If BWCHA determines that the dwelling unit is untenantable because of imminent danger to the life, health, and safety of Resident, and Resident refuses alternative accommodations, this Lease shall be terminated, and any rent paid will be refunded to Resident.

Resident Responsibilities:

A. Resident shall immediately notify the Project Manager of the damage and intent to abate rent, when the damage is or becomes sufficiently severe that Resident believes he/she is justified in abating rent. [966.4 (h)(1)]

B. Resident agrees to continue to pay full rent, less the abated portion agreed upon by BWCHA, during the time in which the defect remains uncorrected.

XIII. Move-in and Move-out Inspections

A. Move-in Inspection: BWCHA and Resident or representative shall inspect the dwelling unit prior to occupancy by Resident. BWCHA will give Resident a written statement of the condition of the dwelling unit, both inside and outside, and note any equipment provided with the unit. A copy of the statement retained in Resident's folder. BWCHA will correct any deficiencies noted on the inspection report, at no charge to Resident.

B. Move-out Inspection -- BWCHA will inspect the unit at the time Resident vacates and give Resident a written statement of the charges, if any, for which Resident is responsible. Resident and/or representative may join in such inspection, unless Resident vacates without notice to BWCHA. [966.4 (i)]

XIV. Entry of Premises During Tenancy

A. Resident Responsibilities-

1. Resident agrees that the duly authorized agent, employee, or contractor of BWCHA will be permitted to enter Resident's dwelling during reasonable hours for the purpose of performing routine housekeeping and special inspections, including closets, performing maintenance, making improvements or repairs, or showing the unit for releasing. [966.4 (j)(1)]

2. When Resident calls to request maintenance on the unit, BWCHA shall attempt to provide such maintenance at a time convenient to Resident. If Resident is absent from the dwelling unit when BWCHA comes to perform maintenance, Resident's request for maintenance shall constitute permission to enter.

B. BWCHA's Responsibilities-

1. BWCHA shall give Resident at least 48 hours written notice that BWCHA intends to enter the unit. BWCHA may enter only at reasonable times. [966.4 (j)(1)]

2. BWCHA may enter Resident's dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists or when the BWCHA has good cause to believe that criminal activity has or is occurring within the premises, or a material violation of the lease is occurring. If the Resident of an adult member of the household is not present at the time of entry, the BWCHA shall leave a written statement showing the date, time and reason for the emergency entry before departing the premises. [966.4 (j)(2)]

3. If Resident and all adult members of the household are absent from the dwelling unit at the time of entry, BWCHA shall leave in the dwelling unit a written statement specifying the date, time and purpose of entry prior to leaving the dwelling unit. [966.4 (j)(3)]

XV. Notice Procedures

A. Resident Responsibility-- Any notice to BWCHA must be in writing, delivered to the Project Office or to BWCHA's central office, or sent by prepaid first-class mail, properly addressed. [966.4 (k)(1)(ii)]

B. BWCHA Responsibility -- Notice to Resident must be in writing, delivered to Resident or to any adult member of the household residing in the dwelling unit, or sent by first-class mail addressed to Resident. [966.4 (k)(1)(i)]

C. Unopened, canceled, first class mail returned by the Post Office shall be sufficient evidence that notice was given.

D. If Resident is visually impaired, all notices must be in an accessible format. [966.4 (k)(2)]

XVI. Termination of the Lease: In terminating the Lease, the following procedures shall be followed by BWCHA and Resident:

A. This Lease may be terminated only for serious or repeated violations of material terms of the Lease or the Admissions and Occupancy Policy, such as failure to make payments due under the lease or to fulfill Resident obligations set forth in this agreement, or for other good cause. [966.4 (l)(2)]

Such serious or repeated violation of terms **shall include but not be limited to**:

1. The failure to pay rent or other payments when due; [966.4 (l)(2)]

2. Repeated late payment, which shall be defined as failure to pay the amount of rent or other charges due by the seventh of the month. Four such late payments within a 12 month period shall constitute a repeated late payment; [966.4 (l)(2)]

3. Failure to pay utility bills when Resident is responsible for paying such bills directly to the supplier of utilities; [966.4 (l)(2)]

4. Misrepresentation of family income, assets, or composition; [966.4 (c)(2)]

5. Failure to supply, in a timely fashion, any certification, release, information, or documentation on Family income or composition needed to process annual reexaminations or interim redeterminations. [966.4 (c)(2)]

6. Serious or repeated damage to the dwelling unit, creation of physical hazards in the unit, common areas, grounds, or parking areas of any project site; [966.4 (l)(2)]

7. Criminal activity by Resident, household member, guest, or other person under Resident's control, including criminal activity that threatens the health, safety or right to peaceful enjoyment of BWCHA's public housing premises by other residents, or any drug-related criminal activity. [966.4 (l)(2)]

8. Offensive weapons or illegal drugs seized in a BWCHA unit by a law enforcement officer; [966.4 (l)(2)]

9. Any fire on BWCHA premises caused by carelessness or unattended cooking. [966.4 (l)(2)]

B. **Notice**: Prior to commencement of unlawful detainer proceedings, BWCHA shall give the Resident:

1. Fourteen (14) days of written notice because of non-payment of rent. If the Resident vacates the premises according to the 14-day notice, the agreement shall be terminated when the Resident vacates and returns all keys to the BHA/WCHA office, or fourteen (14) days after the date of service of the notice for nonpayment, whichever occurs later. If the resident receives (4) four 14-Day Notices for non-payment of rent in a calendar year, the resident will receive thirty (30) days written notice of termination for material or repeated lease violations and this lease agreement is terminated.

2. A reasonable time, but not less than three (3) days, depending upon the seriousness of the situation, in case of creation or maintenance of a threat to the health or safety of other Residents or BWCHA employees caused by the Resident, his household or guest, including any illegal drug related activity which shall include simple possession of marijuana.

3. Notice as otherwise provided in the Revised Code of Washington at RCW 59.18 or RCW 59.12.

4. Thirty (30) days written notice if the BWCHA finds that the Resident’s income has increased so

that it is above the approved income limits for continuing occupancy in low-rent housing. BWCHA will help identify a decent, safe and sanitary dwelling unit of suitable size for possible rental by the Resident at a rent not exceeding the percentage of income being paid at the time.

C. **The notice of termination:**

1. The notice of termination to Resident shall state specific reasons for the termination, shall inform Resident of his/her right to make such reply as he/she may wish, and Resident's right to examine BWCHA documents directly relevant to the termination or eviction. [966.4 (l)(3)(ii)]

2. If BWCHA is required to offer Resident the opportunity for a grievance hearing, the notice shall also inform Resident of the right to request such a hearing in accordance with BWCHA's grievance procedures.

3. Any notice to vacate (or quit) that is required by State or local law may be combined with, or run concurrently with the notice of lease termination under this section. The Notice to Vacate must be in writing, and specify that if Resident fails to quit the premises within the applicable statutory period, appropriate action will be brought against Resident, and the prevailing party in any court action may be awarded court costs and attorney's fees.

4. If BWCHA is required to offer Resident the opportunity for a grievance hearing concerning the lease termination under BWCHA's grievance procedure, the tenancy shall not terminate (even if any Notice to Vacate under State of local law has expired) until the period to request a hearing has expired, or (if a hearing is requested) the grievance process has been completed. [966.4 (l)] .

5. If a grievance hearing is required, all grievances and appeals will be processed and resolved pursuant at to the Grievance policy contained in the Admission and Continued Occupancy Policy, and any grievance procedures adopted by the BWCHA. All grievance hearing procedures will be kept at the site office and at the BWCHA Administration Office, 208 Unity St, Bellingham, WA.

6. When BWCHA is not required to offer Resident the opportunity for a hearing under the grievance procedure and BWCHA has decided to exclude such grievance for BWCHA grievance procedure, the notice of lease termination shall (a) state that Resident is not entitled to a grievance hearing on the termination; (b) specify the judicial eviction procedure to be used by BWCHA for eviction and state that HUD has determined that this eviction procedure provides the opportunity for a hearing in a court that contains the basic elements of due process as defined in HUD regulations; and (c) state whether the eviction is for a criminal activity that threatens health or safety of residents or staff or for drug-related criminal activity. [966.4 (l)(3)]

7. BWCHA may evict Resident from the unit only by bringing a court action. [966.4 (l)(4)]

D. Resident may terminate this Lease at any time by giving thirty days written notice to BWCHA.

E. In deciding to evict for criminal activity, BWCHA shall have discretion to consider (or not to consider) all of the circumstances of the case, including the seriousness of the offense, the extent of participation by or awareness of family members, and the effects that the eviction would have both on family members not involved in the proscribed activity and on the family's neighbors. In appropriate cases, BWCHA may permit continued occupancy by remaining family members and may impose a condition that family members who engaged in the proscribed activity will neither reside in nor visit the unit. BWCHA may require a family member who has engaged in the abuse of alcohol or illegal use of drugs to present credible evidence of successful completion of a treatment program as a condition to being allowed to reside in the unit.

F. When a BWCHA evicts a Resident from a dwelling unit for criminal activity BWCHA shall notify the local post officee serving that dwelling unit that such individual or family is no longer residing in the unit so the post office will stop mail delivery for such persons and they will have no reason to return to the unit. [966.4 (l)(5)]

XVII. Waiver:

A. No delay or failure by BWCHA in exercising any right under this lease agreement, and no partial or single exercise of any such right shall constitute a waiver (post or prospective) of that or any other right, unless otherwise expressly provided herein.

B. **NO WAIVER: THE BWCHA DOES NOT WAIVE ANY RIGHTS OR REMEDIES TO EVICTION OR OTHER ACTION BY ACCEPTANCE OF RENT, PARTIAL PAYMENT OF RENT OR BY ACTION OR FAILURE TO ACT**.

Strict compliance with the terms of this lease is of the essence. **XVIII. Rental agreement amendments**

Amendments to this rental agreement which change the monthly rent shall be in writing. The BWCHA may amend its schedule of charges for services and repairs and its schedule for utility allowances, as well as its rules and regulations set forth in the Admission and Continued Occupancy Policy, by giving the Resident not less than thirty (30) days notice to comment. These notices will be posted in each of the housing projects.

This agreement and its incorporated references shall constitute the only agreement between the parties. Any changes to the agreement must be in writing.

XIX. Captions

The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

XX. Severability

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

XXI. Governing Law

This Agreement is governed by and construed in accordance with the laws of the State of Washington, and the parties agree that in any such action, venue shall lie exclusively in Whatcom County, Washington, provided however, in the event of any tenant dispute other than an eviction or notice to terminate, the Resident shall first file a timely grievance as provided in the Admission and Continued Occupancy Policy and exhaust all remedies provided for in the grievance policy.

XXII. Resolution of conflicting provisions; Interpretation-Neutral construction.

In the event of any conflict between this Lease Agreement and any policy of the BWCHA, the most recently document (lease agreement or policy) shall control. This lease, and all policies referenced and incorporated have been reviewed and approved by all parties. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

RESIDENT AGREES THAT ALL THE PROVISIONS OF THIS LEASE HAVE BEEN READ AND ARE UNDERSTOOD AND FURTHER AGREES TO BE BOUND BY ITS PROVISIONS AND CONDITIONS AS WRITTEN.

RESIDENT: _____

RESIDENT: _____

DATE: _____

HOUSING AUTHORITY OF

☐ **THE CITY OF BELLINGHAM**

☐ **WHATCOM COUNTY**

BY: _____

RENTAL AGREEMENT ADDENDUM

Supplemental Agreement for Drug-Free Housing

1. Resident, any member of the resident's household, or a guest or other person under the resident's control shall not engage in criminal activity, including drug-related criminal activity, on or off project premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance [as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 8020].

2. Resident, any member of the resident's household, or a guest or other person under the resident's control shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or off project premises.

3. Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate, criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household or a guest.

4. Resident or members of the household will not engage in the manufacture, sale, use, or distribution of illegal drugs at any location, whether on or off project premises or otherwise.

5. Resident, any member of the resident's household, or a guest or other person under the resident's control shall not engage in acts of violence or threats of violence, including, but not limited to, the unlawful discharge of firearms on or off project premises.

6. **VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL VIOLATION OF THE RENTAL AGREEMENT AND GOOD CAUSE FOR TERMINATION OF TENANCY.** A single violation of any of the provisions of this Supplemental Agreement shall be deemed a serious violation and a material non-compliance with the Rental Agreement. It is understood and agreed that a single violation shall be good cause for termination of the Rental Agreement. Unless otherwise provided by law, proof of violation shall not require criminal conviction but shall be by a preponderance of the evidence.

7. In case of conflict between the provisions of this Supplemental Agreement and any other provisions of the Rental Agreement, the provisions of the Supplemental Agreement shall govern.

8. This Supplemental Agreement is incorporated into the Rental Agreement previously executed between Owner and Tenant effective: _____

_____	_____
DATE	DATE
Housing Authority of: ☐ the City of Bellingham ☐ Whatcom County	_____ RESIDENT
_____	_____
BY	RESIDENT

RENTAL AGREEMENT ADDENDUM FOR ACOP INCLUSION

Supplemental Agreement to the Rental Agreement for incorporation of Admission and Occupancy Policy ("ACOP")

The Parties identified below do hereby acknowledge and agree, and agree to clarify the Rental Agreement related to the property described below as follows:

1. On or about _____, 20 , the Authority following the required public notice did adopt a revised Admission and Occupancy Policy ("ACOP"). The Tenant identified below does hereby acknowledge the timely notification of the adoption of the ACOP and its incorporation of the ACOP into the terms and conditions of the Rental Agreement. Further, the Parties do hereby acknowledge that upon the adoption of the ACOP, the terms of the ACOP were incorporated into the existing Rental Agreement creating new rights, responsibilities and obligations of the Authority and the Tenant.

2. The ACOP provides certain rules and regulations regarding Tenant conduct and Tenant rights and responsibilities including without limitation income eligibility, Continued occupancy and community service requirements, Inspection violations, pet policy violations, House Rules, trespass policy, towing policies. In addition, the ACOP provides for an informal appeal process and formal appeal process in the event that a tenant may have a dispute of any decision issue or made by the Authority its staff, and/or resident managers.

3. Copies of the ACOP are available for review and copying at the offices of the Bellingham Housing Authority located at 208 Unity Street, Bellingham, WA, and are on file and available for review at the on-site office of the resident manager for the property where the Tenant's apartment is located.

4. **VIOLATION OF THE ACOP BY THE TENANT, SHALL BE A MATERIAL VIOLATION OF THE RENTAL AGREEMENT AND GOOD CAUSE FOR TERMINATION OF TENANCY.** A single violation of any of the provisions of this ACOP may be deemed a serious violation and a material non-compliance with the Rental Agreement by the Authority.

5. This Supplemental Agreement is incorporated into the Rental Agreement previously executed between Owner and Tenant effective: _____

_____	_____
DATE	DATE
Housing Authority of: ☐ the City of Bellingham ☐ Whatcom County	_____ RESIDENT:
_____	_____
BY TITLE:	RESIDENT: ADDRESS AND APARTMENT NUMBER:

_____

PET LEASE ADDENDUM

RESIDENT ACKNOWLEDGMENT

After reading and/or having read to me this lease addendum I, agree to the following:

I agree to abide by the requirements outlined in this lease addendum for pet ownership and to keep the pet(s) in accordance with this lease addendum.

I agree and understand that I am liable for any damage or injury whatsoever caused by my pet(s) and shall pay the landlord or applicable party for any damages or injury caused by the pet(s). I also realize that I should obtain liability insurance for pet ownership and that paying for the insurance is my responsibility.

I agree to accept full responsibility and will indemnify and hold harmless the landlord for any claims by or injuries to third parties or their property caused by my pet(s).

I agree to pay a refundable pet deposit of $_____to the BHA/WCHA. The deposit must be paid prior to the execution of this lease addendum. The pet deposit may be used by the Landlord at the termination of the lease toward payment of any rent or toward payment of any other costs made necessary because of Tenant's occupancy of the premises. Otherwise, the pet deposit, or any balance remaining after final inspection, will be returned to the Tenant after the premises are vacated and all keys have been returned.

I agree and understand that all information concerning my pet(s) must be updated annually and provided to the BHA/WCHA at the Annual Re-examination.

I agree and understand that violating this lease addendum may result in the removal of the pet(s) from the property of the BHA/WCHA and/or eviction. I also understand that I may not be allowed to own any type of pet in the future while being an occupant of the BHA/WCHA.

I also understand that I must obtain prior approval from the Housing Authority before making a change of a pet for which this policy was approved, or adding a second pet. Also, a picture of the pet(s) will be taken by the Housing Authority staff for documentation.

_____ _____

Head of Household Signature Date

_____ _____

Housing Authority Representative Signature Date

MOLD AND MILDEW

Mold and mildew spores are present in the environment, both indoors and outdoors, and cannot be eliminated. Excess moisture is the leading cause of mold or mildew growth indoors. Most sources of moisture, however can be controlled by simple procedures under the occupants control.

The Tenants are responsible for all damage resulting from their failure to comply with this policy.

In order to reduce and minimize the prospect of mold and mildew and to protect your health and the condition of the rental, please utilize the following list of suggestions.

1. Provide adequate ventilation and keep the temperature down.
   - Keep the temperature between 50 and 70 degrees at all times
   - Open multiple windows to all for cross-ventilation at least twice a week for on hour each time
   - Allow at least one inch between the furniture and walls to aid ventilation
   - Open closet doors to allow ventilation

2. Keep the humidity below 40%.
   - Use the bathroom fan during and for 30 minutes after bathing or showering.
     If no fan is available open the bathroom window slightly for the same duration of time
   - Use the fan in the laundry area during and for 20 minutes after using the washer or dryer.
     If no fan is available, open a window slightly for ventilation during the use of the appliances and for a little while after use as deemed appropriate
   - Use the fan above the stove whenever cooking, especially if steaming.
     If no fan is available open a window slightly
   - Use only electric space heaters indoors
   - Use a dehumidifier during humid months as applicable
   - Cover fish tanks
   - Do not keep excess number of house plants

3. Clean thoroughly and regularly.
   - The following is the cleaning method recommended by the EPA:
     Mold growth can be removed with commercial cleaning products or a weak bleach solution (one cup bleach in one gallon water).Wear gloves during cleanup and be careful not to spread the mold. Sensitive people who have to cleanup mold should wear a tight fitting face mask
   - Use mold killing products when cleaning kitchens and bathrooms
   - If mold or mildew appears on walls, ceilings, floors or around tubs or sinks, immediately remove the mold or mildew
   - Dry any water that spills from showers, tubs or sinks immediately
   - Clean up spills onto carpets, rugs or floors and thoroughly dry the rug or carpet
   - Regularly check and clean the window tracks and keep free of condensation

4. You are obligated to notify the Owner/Agent immediately of excess moisture problems such as water leakage, leaking plumbing, leaking tubs or showers or running toilets. If you have attempted to clean mold or mildew and it reappears quickly or you are not able to remove it, report the problem to the Owner/Agent immediately.

Should you need additional information on mold, please see the State of Washington Division of Environmental Health web site: http://www.doh.wa.gov/ehp or contact Tim Hardin of the Washington State Department of Health at (360) 236-3363 or tim.hardin@doh.wa.gov.

Initial Tenant _____ Initial Owner/Agent _____

Frequently Asked Questions About Mold

What are molds?

With more than 100,000 species in the world, it is no wonder molds can be found everywhere. Neither animal or plant, molds are microscopic organisms that produce enzymes to digest organic matter and spores to reproduce. These organisms are part of the fungi kingdom, a realm shared with mushrooms, yeast, and mildews. In nature, mold plays a key role in the decomposition of leaves, wood, and other plant debris. Without mold, we would find ourselves wading neck-deep in dead plant matter. And we wouldn't have great foods and medicines, such as cheese and penicillin. However, problems arise when mold starts digesting organic materials we don't want them to, like our homes.

How do molds grow in my home?

Once mold spores settle in your home, they need moisture to begin growing and digesting whatever they are growing on. There are molds that can grow on wood, ceiling tiles, wallpaper, paints, carpet, sheet rock, and insulation. When excess moisture or water builds up in your home from say, a leaky roof, high humidity, or flooding, conditions are often ideal for molds. Longstanding moisture or high humidity conditions and mold growth go together. Realistically, there is no way to rid all mold and mold spores from your home; the way to control mold growth is to control moisture.

How can I be exposed to mold?

When molds are disturbed, their spores may be released into the air. You then can be exposed to the spores through the air you breath. Also, if you directly handle moldy materials, you can be exposed to mold and mold spores through contact with your skin. Eating moldy foods or hand-to-mouth contact after handling moldy materials is yet another way you may be exposed.

How can molds affect my health?

Generally, the majority of common molds are not a concern to someone who is healthy. However if you have allergies or asthma, you may be sensitive to molds. You may experience skin rash, running nose, eye irritation, cough, congestion, and aggravation of asthma. Also if you have an immune suppression or underlying lung disease, you may be at increased risk for infections from molds.

When necessary, some resourceful molds produce toxins in defense against other molds and bacteria called mycotoxins. Depending on exposure level, these mycotoxins may cause toxic effects in people, also. Fatigue, nausea, headaches, and respiratory and eye irritation are some symptoms that may be experienced from exposure to mycotoxins. If you or your family members have health problems that you suspect are caused by exposure to mold, you should consult with your physician.

How do I know if I have a mold problem?

You may have seen white thread-like growths or clusters of small black specks along your damp bathroom or basement walls, or smelled a "musty" odor. Seeing and smelling mold is a good indication that you have a mold problem. However, you cannot always rely upon your senses to locate molds. Hidden mold can be growing behind wall coverings or ceiling tiles.

Common places to find mold are in areas where water has damaged building materials and furnishings perhaps from flooding or plumbing leaks. Mold can also be found growing along walls where warm moist air condenses on cooler wall surfaces, such as inside cold exterior walls, behind dressers, headboards, and in closets where articles are stored against walls. Rooms with both high water usage and humidity, such as kitchens, bathrooms, laundry rooms, and basements are often havens for mold. If you notice mold or know of water damaged areas in your home, it is time to take action to control its growth.

How can I control mold growth in my home?

Fix any moisture problems in your home:

- Stop all water leaks first. Repair leaking roofs and plumbing fixtures. Move water away from concrete slabs and basement walls.

- Increase air circulation within your home, especially along the inside of exterior walls, and ventilate with fresh air from outside. Provide warm air to all areas of the home. Move large objects away from the inside of exterior walls just a few inches to provide good air circulation.
- Install and use exhaust fans in bathrooms, kitchens, and laundry rooms.
- Ventilate and insulate attic and crawl spaces. Cover earth floors in crawl spaces with heavy plastic.
- Clean and dry water damaged carpets, clothing, bedding, upholstered furniture within 24 to 48 hours, or consider removing and replacing damaged furnishings.
- Vacuum and clean your home regularly.

How do I clean up mold?

The time you are most likely to stir up spores and be exposed is the very time you are trying to clean up your mold problem. That's when you need to be the most careful. First, try to determine the extent of the mold infestation. If the area is small and well defined, clean up can be done by you, as long as you are free of any health symptoms or allergies. However, if the mold problem is extensive, such as between the walls or under the floors, you should leave clean up to a professional.

The time you are most likely to stir up spores and be exposed is the very time you are trying to clean up your mold problem. That's when you need to be the most careful. First, try to determine the extent of the mold infestation. If the area is small and well defined, clean up can be done by you, as long as you are free of any health symptoms or allergies. However, if the mold problem is extensive, such as between the walls or under the floors, you should leave clean up to a professional.

Large Areas

1. Consider having a professional cleanup the area. To find a professional, check under "Fire and Water Damage Restoration" in your Yellow Pages. If you decide to clean up on your own, follow the guidance below.
2. Protect yourself by using goggles, gloves, and breathing protection while working in the area. For large consolidated areas of mold growth, you should use an OSHA (Occupational Safety & Health Administration) approved particle mask.
3. Seal off area from the rest of your home. Cover heat registers or ventilation ducts/grills. Open a window before you start to clean up.
4. Remove all your furnishings to a neutral area to be cleaned later. Follow cleaning directions below.
5. Bag all moldy materials you will be discarding.
6. Scrub all affected hard surfaces:
   - First with a mild detergent solution, such as laundry detergent and warm water.
   - (optional step) Then use a solution of ¼ cup bleach to one quart of water. Wait 20 minutes and repeat. Wait another 20 minutes.
   - Last, apply a borate-based detergent solution and do **not** rinse. This will help prevent mold from growing again. To find a borate-based detergent, read the ingredients listed on the package label for borates.
7. Give the entire area a good cleaning. Vacuum floors, and wash bedding and clothes if exposed.

Small Areas	**1.**	Protect yourself by using goggles, gloves, and breathing protection while working in the area. For small isolated areas of mold growth, a cotton dust mask should do.
	2.	Seal off area from the rest of your home. Cover heat registers or ventilation ducts/grills. Cover all your furniture. Open a window before you start clean up.
	3.	Bag all moldy materials, you will be discarding.
	4.	Scrub all affected hard surfaces: • First with a mild detergent solution, such as laundry detergent and warm water. • (optional step) Then use a solution of ¼ cup bleach to one quart of water. Wait 20 minutes and repeat. Wait another 20 minutes. • Last apply a borate-based detergent solution and do **not** rinse. This will help prevent mold from growing again. To find a borate-based detergent, read the ingredients listed on the package label for borates.
	5.	Give the entire area a good cleaning, vacuum floors, and wash bedding and clothes if exposed.

Clean all furnishings exposed to mold.

Permeable and washable	Such as clothing, bedding, and other washable articles. Simply run through the laundry.
Non-permeable and washable	Such as wood, metal, plastic, glass, and ceramics. Mix a solution of lukewarm water and laundry detergent, and wipe down your articles.
Permeable but not washable	Such as beds and furniture. If these furnishings are moldy, you should consider discarding and replacing them. If you decide it is a keeper, take the furnishing outside. Give it a good vacuuming, and let it air out. When finished, if you do not notice an odor it should be okay. However, watch for any mold growth or health problems.

ATTACHMENT 20: (wa04120)

Bellingham/Whatcom County Housing Authorities
P.O. Box 9701, Bellingham, WA 98227-9701
Phone: (360) 676-6887 ✧ Fax: (360) 738-7698
TTY for hearing impaired: (360) 527-4655

Notice of your Rights under the Violence against Women Act

Applicants and Residents have special protections under the Violence against Women Act. These protections are offered regardless of gender.

An applicant for public housing who has been a victim of domestic violence, dating violence or stalking may not be denied admittance for housing assistance if they are otherwise eligible for housing.

For residents, an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violence of the lease by the victim or threatened victim of that violence, and will not be good cause for terminating the assistance, tenancy or occupancy rights of the victim of such violence.

A resident may not have their tenancy terminated on the basis of criminal activity directly relating to domestic violence, dating violence or stalking engaged in by a member of a tenant's household or any guest under the tenant's control if the resident or an immediate member of the resident family of the victim or threatened victim of that domestic violence, dating violence or stalking.

Nothing in this notice prohibits the Housing Authority from terminating or evicting the resident, if the Housing Authority can demonstrate an actual and imminent threat to other tenants or the Housing Authority's employees if the tenant is not evicted or the lease terminated.

In order to obtain protection under this law applicants and residents must certify their status as a victim of domestic violence, dating violence or stalking. The Housing Authority can provide you with the certification form. In addition, the Housing Authority may request additional documentation to support the statements in your certification.

The individual shall provide the certification within 14 days of the Housing Authority requesting, in writing, the certification. If the individual fails to provide the certification, the Housing Authority may proceed with its decision to deny eligibility or evict or terminate the lease.

I have read the information contained in this form and understand that I have certain protections under The Violence against Women Act.

_____	_____
Signature Head of Household	Signature of spouse or co-head
_____	_____
Date	Date

Bellingham/Whatcom Housing Authorities

Administrative and Continued Occupancy Policy

Approved by the Board of Commissioners
June 2010

Submitted to HUD
July 2010

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The BWCHA receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The BWCHA is not a federal department or agency. A public housing agency (BWCHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The BWCHA enters into an Annual Contributions Contract with HUD to administer the public housing program. The BWCHA must ensure compliance with federal laws, regulations, and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the BWCHA and its programs with emphasis on the public housing program. It also contains information about the purpose, intent, and use of the plan and guide.

There are three parts to this chapter:

> Part I: The Public Housing Agency (BWCHA). This part includes a description of the BWCHA, its jurisdiction, its programs, and its mission and intent.
>
> Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.
>
> Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE BWCHA

1-I.A. OVERVIEW

This part describes the BWCHA's creation and authorization, the general structure of the organization, and the relationship between the BWCHA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF THE BWCHA

Public housing is funded by the federal government and administered by the Bellingham/Whatcom County Housing Authorities (BWCHA) for the jurisdiction of Bellingham and Whatcom County.

BWCHA is governed by a board of officials that are generally called "commissioners." Although some Housing Authorities may use a different title for their officials, this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies

under which the BWCHA conducts business, and ensures that those policies are followed by BWCHA staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of the BWCHA are taken through written resolutions, adopted by the board, and entered into the official records of the BWCHA.

The principal staff member of the BWCHA is the executive director (ED), who is selected and hired by the board. The ED oversees the day to day operations of the BWCHA and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising the BWCHA's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates. In some housing authorities, the ED is known by another title, such as chief executive officer or president.

1-I.C. BWCHA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

BWCHA Policy

Our mission is to provide quality, affordable housing for low- and moderate-income families, elderly households, and persons with disabilities through innovative resource development and responsible stewardship of our housing and fiscal resources.

The following activities will support the mission of the Housing Authority:

- Expand the supply of assisted housing
- Increase assisted housing choices
- Ensure Equal Opportunity in Housing for all Americans
- Meet statutory goals for deconcentrating poverty and expanding housing and economic opportunities
- Increase the availability of decent, safe and affordable housing
- Pursue housing resources in addition to public housing and Section 8 resident-based assistance
- Recognize the residents as its ultimate customers

1-I.D. THE BWCHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the BWCHA is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the BWCHA resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.

- Provide decent, safe, and sanitary housing in good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the BWCHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the BWCHA's support systems and commitment to our employees and their development.

The BWCHA will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.

PART II: THE PUBLIC HOUSING PROGRAM

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

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

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

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

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

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans;

income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the BWCHA to administer programs in accordance with HUD regulations and provides an operating subsidy to the BWCHA. The BWCHA must create written policies that are consistent with HUD regulations. Among these policies is the BWCHA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the BWCHA.

The job of the BWCHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The BWCHA screens applicants for public housing and, if they are found eligible and accepted, the BWCHA offers the applicant a unit. If the applicant accepts the offer, the BWCHA will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a resident of the public housing program.

In the context of the public housing program, a resident is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the BWCHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to residents as "residents." The terms "resident" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the BWCHA owns the public housing development, the BWCHA is the landlord. The BWCHA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and BWCHA policy.

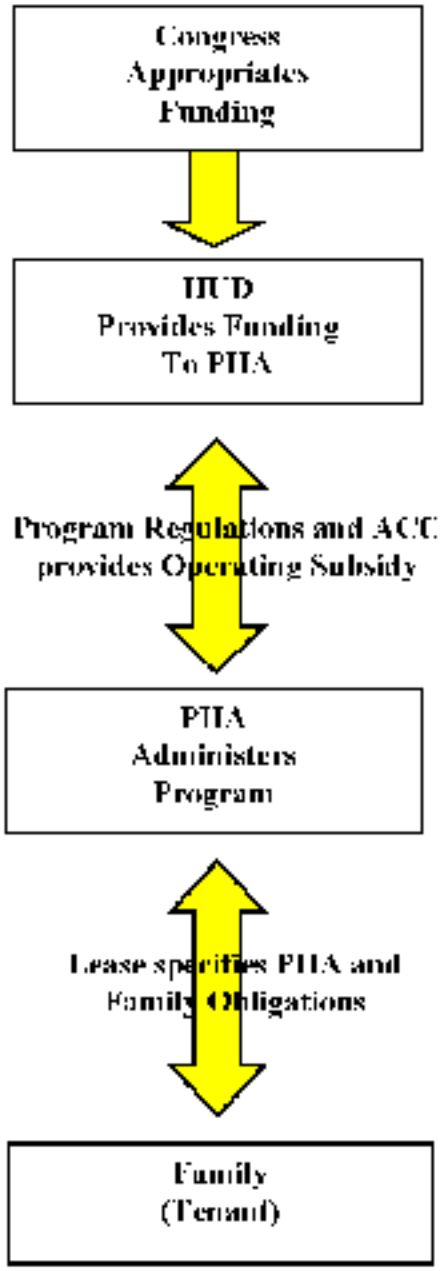
1-II.C. PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, the BWCHA enters into a contractual relationship with HUD through the ACC. The BWCHA also enters into a contractual relationship with the resident through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved – HUD, the BWCHA, and the resident – must play their important parts.

The chart on the following page illustrates key aspects of these relationships.

The Public Housing Relationships



What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to PHAs
- Allocate capital funding to PHAs
- Provide technical assistance to PHAs on interpreting and applying program requirements
- Monitor PHA compliance with program requirements and PHA performance in program administration.

What does the BWCHA do?

The BWCHA's responsibilities originate in federal regulations and the ACC. The BWCHA owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

- Establish local policies
- Review applications from interested applicant families to determine whether applicants are eligible for the program
- Maintain waiting list and select families for admission
- Maintain housing units by making any necessary repairs in a timely manner
- Screen families who apply for tenancy, to determine if they will be good renters
- Offer units to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Make sure the BWCHA has adequate financial resources to maintain its housing stock
- Ensure that families continue to qualify under the program
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the BWCHA's ACOP, and other applicable federal, state, and local laws.

What does the Resident do?

The resident's responsibilities are articulated in the public housing lease. The resident has the following broad responsibilities:

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

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

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

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

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

The ACOP is the BWCHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the BWCHA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The BWCHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the BWCHA's written policy. At a minimum, the ACOP plan should cover BWCHA policies on these subjects:

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

New Approach to Policy Development

HUD has developed an approach to monitoring policy that emphasizes the importance of

consistency. The ACOP supports that goal by clearly defining BWCHA policy for BWCHA management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring (RIM) program has been consistency in how PHAs conduct their business and in how HUD monitors PHAs activities. HUD has made it clear that consistency in BWCHA conduct is important. Referring to and following the ACOP is essential to maintaining consistency in applying BWCHA policy.

HUD makes a distinction between:

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

HUD expects BWCHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the BWCHA has adopted. The BWCHA's Admissions and Continued Occupancy Policy is the document that contains and clarifies BWCHA policy. HUD's new direction adds additional emphasis to the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. Therefore, following HUD guidance in the preparation of BWCHA policy, even though it is not mandatory, provides a BWCHA with a "safe harbor." If BWCHA adopts its own optional policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but BWCHA should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations, and mandatory policy.

1-III.C. UPDATING AND REVISING THE POLICY

The BWCHA will revise this ACOP as needed to comply with changes in HUD regulations. The original policy and any changes must be approved by the board of commissioners of the BWCHA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

BWCHA Policy

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

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

> Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the BWCHA regarding nondiscrimination.
>
> Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.
>
> Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the BWCHA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD's Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal* Register ("Notice of Guidance").

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require BWCHA to treat all applicants and resident 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. The BWCHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973

- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of residents, applicants, or staff that may subsequently be enacted

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

2-I.B. NONDISCRIMINATION

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

The BWCHA 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.

BWCHA Policy

The BWCHA will not discriminate on the basis of marital status or sexual orientation.

The BWCHA will not use any of these factors to:

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

protected class

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

Providing Information to Families

The BWCHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the BWCHA will provide information to public housing applicant families about civil rights requirements.

Discrimination Complaints

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

BWCHA Policy

Applicants or resident families who believe that they have been subject to unlawful discrimination may notify the BWCHA either orally or in writing.

The BWCHA will attempt to remedy discrimination complaints made against the BWCHA.

The BWCHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

The BWCHA must provide a notice to each resident that the resident may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the resident can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

BWCHA Policy

The BWCHA will provide a notice to all applicants and resident families explaining their right to a reasonable accommodation and asking if they require any type of accommodations.

Notifications of recertification, inspection, appointment, or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the Residents will include information about requesting a reasonable accommodation.

All decisions granting of denying requests for reasonable accommodations will be in writing.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

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

When such accommodations are granted they do not confer special treatment or advantage for the person with a disability; rather, they make the program fully accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the Housing Authority will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the Housing Authority will ensure that all applicants/resident families are aware of the opportunity to request reasonable accommodations.

Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability

- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a BWCHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with BWCHA staff
- Displaying posters and other housing information in locations throughout the BWCHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the BWCHA 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 BWCHA's programs and services.

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

> BWCHA Policy
>
> The BWCHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the BWCHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

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

Before providing an accommodation, the BWCHA 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 BWCHA's programs and services.

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

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

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

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

The BWCHA 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 BWCHA, or fundamentally alter the nature of the BWCHA's operations.

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

family's disability-related needs.

Before making a determination whether to approve the request, the BWCHA 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 BWCHA may verify the need for the requested accommodation.

BWCHA Policy

After a request for an accommodation is presented, the BWCHA will respond, in writing, within 14 calendar days.

If the BWCHA 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 BWCHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If the BWCHA 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 BWCHA's operations), the BWCHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

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

APPLICATION PROCESS

For purposes of this section, BWCHA will make the following types of accommodations to persons with disabilities to facilitate the application process:

- Permitting the submission of applications or certification forms via mail.
- Permitting an authorized designee to participate in the application or certification process.

RECERTIFICATION BY MAIL

BWCHA will permit the family to submit annual and interim recertification forms through the mail, when BWCHA has determined that the request is necessary as a reasonable accommodation.

The mail-in packet will include notice to the family of BWCHA's deadline for returning the completed forms to BWCHA.

If there is more than one adult member in the household, but only one is disabled, recertifications will not be processed through the mail. In such cases, the family may

choose to have BWCHA conduct the recertification by a home visit or to have the able adult family members come in for the appointment and then take the necessary forms home to the member with a disability for completion and signature.

HOME VISITS

When requested and where the need for reasonable accommodation has been established, BWCHA will conduct home visits to residents to determine eligibility and conduct annual and interim recertifications.

Requests for home visit recertifications must be received by BWCHA at least 3 days before the scheduled appointment date in order for the request to be considered.

BWCHA will consider home visit recertification's which are requested after the scheduled appointment has been missed, according to the number of allowed rescheduled appointments noted in the chapter on Recertification's.

BWCHA will not consider home visit recertification's that are requested after the scheduled appointment has been missed, unless the resident has a justifiable reason.

QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION

A. Was the request for a reasonable accommodation made by or on behalf of a person with disabilities? For this purpose the definition of disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. (The disability may not be apparent to others, i.e., a heart condition).

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, the Housing Authority will obtain verification from a qualified and unrelated third party that the person is a person with a disability.

When verifying a disability, BWCHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 3 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical

professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

BWCHA must request only information that is necessary to evaluate the disability-related need for the accommodation. BWCHA may not inquire about the nature or extent of any disability.

Medical records will not be accepted or retained in the file.

B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the Housing Authority will obtain documentation from a qualified and unrelated third party that the requested accommodation is needed due to the disability. The Housing Authority will not inquire as to the nature of the disability.

C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:

1. Would the accommodation constitute a fundamental program alteration? BWCHA's business is housing. If the request would alter the fundamental business that the Housing Authority conducts, that would not be reasonable. For instance, the Housing Authority would deny a request to have the Housing Authority do grocery shopping for the person with disabilities.

2. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the Housing Authority may request a meeting with the individual to investigate and consider equally effective alternatives.

D. If more than one accommodation is equally effective in providing access to BWCHA's programs and services, BWCHA retains the right to select the most efficient or economic choice. In addition, BWCHA may propose alternative solutions in order to provide a reasonable accommodation

The cost necessary to carry out approved requests, including requests for physical modifications, will be borne by BWCHA if there is no one else willing to pay for the modifications. If another party pays for the modification, BWCHA will seek to have the same entity pay for any restoration costs.

If the Resident requests, as a reasonable accommodation, that they be permitted to make physical modifications at their own expense, BWCHA will generally approve such request if it does not violate codes or affect the structural integrity of the unit.

Any request for an accommodation that would enable a Resident to materially violate essential lease terms will not be approved, i.e. allowing nonpayment of rent, destruction of property, disturbing the peaceful enjoyment of others, etc.

Provisions for reasonable accommodation requests that are temporary in duration will be reviewed annually.

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

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

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

BWCHA Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available. The TTY telephone number is (360)527-4655.

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 BWCHA staff, one-on-one assistance will be provided upon request.

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

2-II.G. PHYSICAL ACCESSIBILITY

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

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The BWCHA’s policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the BWCHA’s responsibilities with regard to physical accessibility.

- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the public housing offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The BWCHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

In addition, the BWCHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

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

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

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

2-III.B. ORAL INTERPRETATION

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

BWCHA Policy

The BWCHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, the BWCHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other BWCHA, and will standardize documents. Where feasible and possible, the BWCHA will encourage the use of qualified community volunteers.

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

2-III.C. WRITTEN TRANSLATION

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

BWCHA Policy

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

The BWCHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons,

whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the BWCHA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

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

BWCHA Policy

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

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

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

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

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

The phrase "physical or mental impairment" includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program the applicant family must:

- Qualify as a family as defined by HUD and the BWCHA.
- Have income at or below HUD-specified income limits.
- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for family members as required.
- Consent to the BWCHA's collection and use of family information as provided for in BWCHA-provided consent forms.

The BWCHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the BWCHA.

This chapter contains three parts:

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

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

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

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403 and HUD-50058 IB, p. 13]

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

Family

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

BWCHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family. Unmarried couples of the opposite or same sex will be considered a family if it can be shown that the members have formed a stable relationship. If the couple is not related by blood (e.g. brother and sister, mother and son) then BWCHA will consider the relationship to be one of affinity and will allow one bedroom for the couple when it determines the bedroom size.

To be eligible for admission as a single person to BWCHA family housing, the following guidelines apply:

1. Single persons, with no children, who are pregnant as verified by a licensed physician.

    a. If the pregnancy is terminated after admission, the single person would still be eligible as the remaining member of a Resident family.

    b. If the pregnancy is terminated prior to admission, the applicant is no longer considered a Family

2. Single persons, with no children, who are in the process of obtaining legal custody of a person under eighteen (18) years of age.

    a. There must be reasonable likelihood of the success of obtaining custody at the time of an offer of housing. If there is not a "reasonable likelihood" of success, but the applicant is still attempting to obtain custody, the applicant would not be housed, but could maintain the position on the waiting list until such time as custody is either secured or denied.

    b. If custody is denied after admission, the single person would still be eligible as the remaining member of a Resident family.

3. A single person who otherwise qualified, provided that the HUD Field Office Director has authorized such admissions due to excessive vacancies and a shortage of applicants, other than single persons.

4. A single person displaced by government action or as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.

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

Household

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

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

Family Break-up

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

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

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

In the absence of a judicial decision or an agreement among the original family members, the BWCHA will determine which family retains their placement on the waiting list, or will continue in occupancy taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

Remaining Member of a Resident Family [24 CFR 5.403]

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

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

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

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

BWCHA Policy

The family may designate any qualified family member as the head of household.

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

A minor who is emancipated under state law may be designated as head of household if there is a court order recognizing them as an emancipated minor.

Persons who are married are legally recognized as adults under State law.

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

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

Spouse means the marriage partner of the head of household.

BWCHA Policy

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

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

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

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

3-I.F. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

BWCHA Policy

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

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

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

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

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

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

Elderly Persons

An *elderly person* is a person who is at least 62 years of age [24 CFR 5.100].

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age [24 CFR 945.105].

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person [24 CFR 5.403]. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

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

Persons with Disabilities

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

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

Disabled Family

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

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

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

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

The lease must provide that the resident has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near BWCHA premises [24 CFR 966.4(f)].

> <u>BWCHA Policy</u>
>
> A resident family must notify the BWCHA when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period.
>
> A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.
>
> Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.
>
> Former residents who have been evicted are not permitted as overnight guests.
>
> Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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

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

BWCHA Policy

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

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

BWCHA Policy

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

Absent Students

BWCHA Policy

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

Absences Due to Placement in Foster Care [24 CFR 5.403]

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

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

Absent Head, Spouse, or Cohead

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

Individuals Confined for Medical Reasons

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

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

Return of Permanently Absent Family Members

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

3-I.M. LIVE-IN AIDE

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

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

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

BWCHA Policy

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

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

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

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

Verification of the need for a live-in aide must include the hours the care will be provided.

If the 30 calendar days expire, the resident will have to resubmit an application for approval of a live-in aide.

If the live-in aide or their family members participate in drug-related or criminal activity BWCHA will rescind the aid's right to occupy the unit. When the agency takes such action against the live-in aide, the aide is not entitled to the grievance hearing process of the agency.

Within 14 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, the BWCHA will notify the family of its decision in writing.

HOMELESS FAMILIES

Homeless families are defined a families lacking a fixed, regular, adequate nighttime residence OR have a primary nighttime residence that is a supervised public/private shelter providing temporary accommodations, or an institution providing temporary residence for individuals intended to be institutionalized, or a public/private place not ordinarily used as a sleeping accommodation. Does not include any individual

imprisoned or detained pursuant to State law or an act of Congress.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

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

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

Using Income Limits for Eligibility [24 CFR 960.201]

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

A family may not be admitted to the public housing program from another assisted housing program (e.g., Resident-based Section 8) or from a public housing program operated by another housing authority without meeting the income requirements of BWCHA.

If BWCHA acquires a property for federal public housing purposes, the families living there must have incomes within the low-income limit in order to be eligible to remain as public housing Residents.

Income limit restrictions do not apply to families transferring within our Public Housing Program.

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

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

If admissions of extremely low-income families to the BWCHA's housing choice voucher

program during a BWCHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the BWCHA's public housing basic targeting requirement for the same fiscal year.

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

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

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

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

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

> <u>BWCHA Policy</u>
> Family members who declare citizenship or national status will not be required to provide additional documentation unless the BWCHA receives information indicating that an

individual's declaration may not be accurate.

Eligible Noncitizens
In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with BWCHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

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

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

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

Ineligible Families [24 CFR 5.514(d), (e), and (f)]
A BWCHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the BWCHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

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

When a BWCHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 14 calendar days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the BWCHA. The informal hearing with the BWCHA 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 hearing process.

Informal hearing procedures are contained in Chapter 14.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]
For new occupants joining the resident family the BWCHA must 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 BWCHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

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

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]
The applicant and all members of the applicant's household must provide documentation of a valid Social Security Number (SSN) to be eligible. Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is added to the household, the new member's SSN documentation must be submitted at the time of the request to add the person to the household. If any member of the household obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

The BWCHA must deny admission to an applicant family if they do not meet the SSN disclosure, documentation, and verification requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

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

Signing Consent Forms

In order to be eligible, each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.

The consent form must contain, at a minimum, the following:

A. A provision authorizing HUD or BWCHA to obtain from State Wage Information Collection Agencies (SWICA's) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy; and

B. A provision authorizing HUD or BWCHA to verify with previous or current employers income information pertinent to the family's eligibility for or level of assistance;

C. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits; and

D. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

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

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires or permits the BWCHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The BWCHA's authority in this area is limited by the Violence against Women Reauthorization Act of 2005 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking.

This part covers the following topics:

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

Administration
All screening procedures shall be administered fairly and in such a way as not to discriminate on the basis of race, color, nationality, religion, sex, familial status, disability or against other legally protected groups, and not to violate right to privacy.
To the maximum extent possible, BWCHA will involve other community and governmental entities in the promotion and enforcement of this policy.
Copies of this policy will be made readily available to applicants and tenants upon request.

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]
PHAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the BWCHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the BWCHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the BWCHA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

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

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

  <u>BWCHA Policy</u>
  The BWCHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the BWCHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the BWCHA, or the person who committed the crime is no longer living in the household.

- The BWCHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled

Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

BWCHA Policy
Currently engaged in is defined as any use of illegal drugs during the previous twelve months.

- The BWCHA 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.

BWCHA Policy
In determining reasonable cause, the BWCHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. The BWCHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

BWCHA may admit the household if:

1. The person demonstrates to BWCHA's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;

2. Has successfully completed a supervised drug or alcohol rehabilitation program;

3. Has otherwise been rehabilitated successfully; or
   Is participating in a supervised drug or alcohol rehabilitation program

Denied for life: Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

Denied for life: Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

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

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

Criminal Activity [24 CFR 960.203 (b) and (c)]

Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points.

The BWCHA is responsible for screening family behavior and suitability for tenancy. In doing so, the BWCHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the

health, safety, or welfare of other residents.

BWCHA Policy

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

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

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

- Criminal activity that may threaten the health, safety, or welfare of other residents [24 CFR 960.203(c)(3)].
- Criminal activity that may threaten the health or safety of BWCHA staff, contractors, subcontractors, or agents.

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

- Criminal activity or any activity that would be a crime on or off the premises or property.

- Currently has an active arrest warrant.

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

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

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

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

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

BWCHA Policy

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years

- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other residents

- Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)

- Owes rent or other amounts to a previous landlord, including but not limited to this or any other housing authority or owner in connection with any assisted housing program. Previous outstanding debts to BWCHA or any PHA resulting from a previous tenancy in the public housing or Section 8 program must be paid in full or currently be meeting the terms of a repayment agreement prior to admission. Either spouse is responsible for the entire debt incurred as a previous BWCHA tenants. Children of the head or spouse who incurred a debt to BWCHA will not be held responsible for the parents' previous debts

- 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, including the intentional misrepresentation of information related to their housing application or benefits derived there from

- Has engaged in or threatened violent or abusive behavior toward BWCHA personnel

    - *Abusive or violent behavior towards BWCHA 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.

- Ability to maintain (or with assistance would have the ability to maintain) their housing in a decent and safe condition based on living or

housekeeping habits and whether such habits could adversely affect the health, safety, or welfare of other Residents

- History of abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment by others

- Has a household member who has been evicted from public housing or terminated from Section 8

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

The BWCHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the BWCHA in complying with HUD requirements and BWCHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the BWCHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The BWCHA may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

<u>BWCHA Policy</u>

BWCHA will conduct a detailed review of all applicants. The application form will contain questions designed to evaluate the qualifications of applicants to meet the essential requirements of tenancy. Answers will be subject to third party verification. Such verification may include, but is not limited to the following:

- Credit check of the head, spouse and co-head

- Rental history check for all adult household members

- Criminal background check, including a local law enforcement, for all adult household members, including live-in aides

- A home visit

- A check of the State's lifetime sex offender registration program for each adult member, including live-in aides.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the BWCHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

If the BWCHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the BWCHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

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

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

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

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

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

If the BWCHA chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

Policy A: The BWCHA must submit a request for information to a drug abuse treatment facility

for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or cohead regardless of age.

Policy B: The BWCHA must submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the BWCHA chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

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

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

The BWCHA is responsible for the screening and selection of families to occupy public housing units. The BWCHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

BWCHA Policy
The BWCHA will consider the family's history with respect to the following factors:

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

Resources Used to Check Applicant Suitability [PH Occ GB, pp. 47-56]

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

BWCHA Policy

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

- *Past Performance in Meeting Financial Obligations, Especially Rent*
  - BWCHA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the BWCHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. BWCHA and landlords will be asked if they would rent to the applicant family again.
  - Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are resident-paid utilities.)
  - If an applicant has no rental payment history the BWCHA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.
  - Applicants with no rental payment history will also be asked to provide the BWCHA 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 applicant will also be required to complete a checklist documenting their ability to meet financial obligations.
  - If previous landlords or the utility company do not respond to requests from the BWCHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)
- *Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Residents, or Cause Damage to the Unit or the Development*
  - BWCHA and landlord references for the past five years, gathering

information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

- Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

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

- Home visits may be used to determine the applicant's ability to care for the unit.

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

Evidence

BWCHA Policy

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

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

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

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

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

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

BWCHA Policy
The BWCHA will consider the following factors prior to making its decision:

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

Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]
HUD permits BWCHA to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

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

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

Reasonable Accommodation [PH Occ GB, pp. 58-60]
If the family includes a person with disabilities, the BWCHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

BWCHA 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 BWCHA will determine whether the behavior is

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

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162]

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

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

Definitions

As used in VAWA:

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
  - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

- In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

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

Notification

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

A statement of the protection against denial provided by VAWA

A description of BWCHA confidentiality requirements

A request that an applicant wishing to claim this protection submit to the BWCHA documentation meeting the specifications below with her or his request for an informal hearing (see section 14-I.B)

Documentation
Victim Documentation

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

A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking

A police or court record documenting the domestic violence, dating violence, or stalking

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing

the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

Perpetrator Documentation

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

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

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

Time Frame for Submitting Documentation

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

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

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

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

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

If a BWCHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the BWCHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

> BWCHA Policy
>
> If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the BWCHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 14 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the BWCHA to dispute the information within that 10 day period, the BWCHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

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

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

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

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

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

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

  (A) IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that-
  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
  (ii) is manifested before the individual attains age 22;
  (iii) is likely to continue indefinitely;
  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and
  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

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

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

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

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

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

Individual with Handicaps [24 CFR 8.3]
Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

As used in this definition, the phrase:

(1) Physical or mental impairment includes:

   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymBWCHAtic; skin; and endocrine

   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

(4) Is regarded as having an impairment means:

   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation

   (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

   (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

Chapter 4

APPLICATIONS, WAITING LIST AND RESIDENT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the BWCHA with the information needed to determine the family's eligibility. HUD requires the BWCHA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the BWCHA must select families from the waiting list in accordance with HUD requirements and BWCHA policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The BWCHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the BWCHA to receive preferential treatment.

HUD regulations require that the BWCHA comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that the BWCHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

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

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

> Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the BWCHA will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the BWCHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the BWCHA will use to keep the waiting list current.
>
> Part III: Resident Selection. This part describes the policies that guide the BWCHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the BWCHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the BWCHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the BWCHA's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the BWCHA to determine the format and content of its applications, as well how such applications will be made available to interested families, and how applications will be accepted by the BWCHA.

BWCHA Policy

Depending upon the length of time that applicants may need to wait to be housed, the BWCHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

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

Families may obtain application forms from the BWCHA's office during normal business hours. Families may also request – by telephone or by mail – that a form be sent to the family via first class mail.

Completed applications must be returned to the BWCHA by mail, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by the BWCHA for processing. **Incomplete pre-applications or applications will result in denial of eligibility and removal from the waitlist.**

Persons with disabilities who require a reasonable accommodation in completing a pre-application or application may call BWCHA to make special arrangements. A Telecommunication Device for the Deaf (TTY) is available at (360) 527-4655.

Pre-Applications

Families wishing to apply for the Public Housing Program will be required to complete the pre-application for public housing. Pre-application forms can be obtained from

BWCHA during normal business hours. Families may also request – by telephone or by mail – that a form be sent to the family via first class mail.

Completed pre-applications must be returned to BWCHA by mail, by fax, or submitted in person during normal business hours. Pre Applications must be complete in order to be accepted by BWCHA for processing. If a pre-application is incomplete, BWCHA will notify the family of the additional information required.

Pre-Applications will be accepted during regular business hours at:

208 Unity Street, Lower Level, Bellingham, Washington,

Due to the demand for housing in BWCHA jurisdiction, BWCHA may take pre-applications on an open enrollment basis, depending on the length of the waiting list.

The completed pre-application will be dated and time-stamped upon its return to BWCHA. Each applicant will receive a receipt from BWCHA that identifies the date and time the pre-application was received.

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

Upon receipt of the family's pre-application, the BWCHA will place the family on the waiting list. If BWCHA determines the family to be ineligible, the notice will state the reasons therefore and will offer the family the opportunity of an informal review of the determination.

The applicant may, at any time, report in writing of any changes in his or her applicant status, including changes in family composition, income, or preference factors. BWCHA will annotate the applicant's file and will update his or her place on the waiting list. Confirmation of the changes will be confirmed with the family. Applicants are also required to respond to requests from BWCHA to update information on their application or to determine their continued interest in assistance.

Applications

The second phase is the final determination of eligibility, referred to as the full application. The full application takes place when the family nears the top of the waiting list. Completed applications will be accepted for all applicants for whom BWCHA has made a preliminary determination of eligibility and BWCHA will verify the information on the application. BWCHA will ensure that verification of all preferences, eligibility, suitability and selection factors are current in order to determine the family's final eligibility for admission into the Public Housing Program.

Applicant families must notify BWCHA whenever they have a change of mailing address. The notice of a change in address must be in writing and must be signed by the applicant (head of household). BWCHA will not be responsible for any action or inaction that results from a failure of the family to properly notify BWCHA of a change of address.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

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

Limited English Proficiency

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

4-I.D. PLACEMENT ON THE WAITING LIST

The BWCHA must review each completed application received and make a preliminary assessment of the family's eligibility. The BWCHA must place on the waiting list families for whom the list is open unless the BWCHA determines the family to be ineligible. Where the family is determined to be ineligible, the BWCHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

<u>BWCHA Policy</u>

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

Eligible for Placement on the Waiting List

BWCHA Policy

The BWCHA will send written notification of the preliminary eligibility determination within 14 calendar days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

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

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

The BWCHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to BWCHA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

In addition, HUD imposes requirements on how the BWCHA may structure its waiting list and how families must be treated if they apply for public housing at a BWCHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

The BWCHA's public housing waiting list must be organized in such a manner to allow the BWCHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

BWCHA Policy

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

- Name and social security number of head of household
- Unit size required (number of family members)

- Amount and source of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household
- The specific site(s) selected (only if BWCHA offers site-based waiting lists)

BWCHA will maintain two waiting lists, one county-wide waiting list, and one city-wide waiting list for its developments. Within the list, BWCHA will designate subparts to easily identify who should be offered the next available unit (i.e. mixed populations, general occupancy, unit size, and accessible units). Applicants will be placed on waiting lists for which they've applied and meet the minimum program requirements (i.e. to be placed on the waiting list for a senior/disabled property, the applicant must be either senior or disabled or both).

HUD directs that a family that applies to reside in public housing must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that BWCHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

BWCHA will not merge the public housing waiting list with the waiting list for any other program BWCHA operates.

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

Opening the Waiting List

Opening of the waiting list will be announced with a public notice stating that applications for public housing will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation and also by any available minority media. The public notice will state any limitations to who may apply.
The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program and such applicants will not lose their place on other waiting lists when they apply for public housing. The notice will include the Fair Housing logo and slogan and will be in compliance with Fair Housing requirements.

Closing the Waiting List

The BWCHA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fill its developments. The BWCHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

BWCHA Policy

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

Reopening the Waiting List

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

BWCHA Policy

The BWCHA will announce the reopening of the waiting list at least 14 calendar days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.

The BWCHA will give public notice by publishing the relevant information in a local newspaper of general circulation and also by any available minority media.

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

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

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

BWCHA outreach efforts must 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

BWCHA outreach efforts must be 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

BWCHA Policy

The BWCHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the BWCHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

BWCHA Policy

While the family is on the waiting list, the family must inform the BWCHA, within 14 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

4-II.F. UPDATING THE WAITING LIST

HUD requires the BWCHA to establish policies to use when removing applicant names from the waiting list [24 CFR 960.202(a)(2)(iv)].

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 BWCHA's request for information or updates because of the family member's disability, the BWCHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

BWCHA Policy

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 BWCHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the BWCHA has on record for the family. The update request will provide a deadline by

which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the BWCHA not later than 14 calendar days from the date of the BWCHA letter.

If the family fails to respond within 14 calendar days, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 14 calendar days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

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

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

Removal from the Waiting List

BWCHA Policy

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

If the BWCHA determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because the BWCHA has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding the BWCHA's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: RESIDENT SELECTION

4-III.A. OVERVIEW

The BWCHA must establish resident selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The BWCHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The BWCHA must not assign persons to a

particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

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

The BWCHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the BWCHA's selection policies [24 CFR 960.206(e)(2)]. The BWCHA's policies must be posted any place where the BWCHA receives applications. The BWCHA must provide a copy of its resident selection policies upon request to any applicant or resident. The BWCHA may charge the family for providing a copy of its resident selection policies [24 CFR 960.202(c)(2)].

BWCHA Policy

When an applicant or resident family requests a copy of the BWCHA's resident selection policies, the BWCHA will provide copies to them free of charge.

4-III.B. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the BWCHA will use.

Local Preferences [24 CFR 960.206]

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the BWCHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the BWCHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

BWCHA Policy

The BWCHA will use the following local preference:

- BWCHA will select families based on the following local preferences within each bedroom size category based on the Bellingham Housing Authority and/or the Whatcom County Housing Authority local housing needs and priorities.
    - Applicants who qualify for the following local preference are limited annually to the number indicated of those applicants assisted during a calendar year. Applicants meeting this criteria shall be assisted in the following order:
    - Thirty (30) families who have either completed, or who are participants in good standing of a transitional housing program. Applicants in this category must be referred in writing by a transitional housing program.
    - The term "transitional housing" means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent

housing.

- All other applicants
    - All preferences are weighted equally. The date and time of application will be noted and utilized to determine the sequence within the above-prescribed preferences.
    - Not withstanding the above, families who are elderly or disabled will be offered housing before other single persons.

Income Targeting Requirement [24 CFR 960.202(b)]

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

If a BWCHA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the BWCHA's HCV program during a BWCHA fiscal year that exceed the 75% minimum target requirement for the voucher program, shall be credited against the BWCHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the BWCHA fiscal year; (2) ten percent of waiting list admissions to the BWCHA's housing choice voucher program during the BWCHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of BWCHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

<u>BWCHA Policy</u>

The BWCHA 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.

BWCHA shall follow the statutory requirement that at least 40% of newly admitted families in any fiscal year be families whose annual income is at or below 30% of the area median income. To insure this requirement is met BWCHA shall quarterly monitor the incomes of newly admitted families and the incomes of the families on the waiting list. If it appears that the requirement to house extremely low-income families will not be met, BWCHA will skip higher income families on the waiting list to reach extremely low-income families.

If admissions of extremely low-income families to BWCHA voucher program during a fiscal year exceed the seventy-five percent (75%) minimum targeting requirement for BWCHA's voucher programs, such excess shall be credited (subject to the limitations in this paragraph) against BWCHA's basic targeting requirements for the same fiscal year.

The fiscal year credit for voucher program admissions that exceeds the minimum voucher program targeting requirement shall not exceed the lower of:

1. Ten percent (10%) of public housing waiting list admissions during BWCHA fiscal year;

2. Ten percent (10%) of waiting list admissions to BWCHA's Section 8 Resident-based assistance program during BWCHA fiscal year; or

3. The number of qualifying low income families who commence occupancy during the fiscal year of BWCHA public housing units located in census tracts with a poverty rate of 30 % or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

If there are not enough extremely low-income families on the waiting list BWCHA will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the BWCHA at some point after its inception obtained HUD approval to give preference in resident selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. The BWCHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The BWCHA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the BWCHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The BWCHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Family Developments

If there are an insufficient number of families on the waiting list, BWCHA may make the unit available to families on the next most appropriate bedroom size waiting list after 30 days from the date of receiving the notice to vacate from the current tenant.

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

The BWCHA may designate projects or portions of a public housing project specifically for elderly or disabled families. The BWCHA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the BWCHA must also apply any preferences that it has

established. If there are not enough elderly families to occupy the units in a designated elderly development, the BWCHA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the BWCHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

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

The BWCHA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income residents into lower income projects and lower income residents into higher income projects. A statement of the BWCHA's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

To accomplish this goal, BWCHA may temporarily bypass families on the waiting list to reach other families with a lower or higher income. BWCHA will accomplish this in a uniform and non-discriminating manner.

BWCHA will affirmatively market its housing to all eligible income groups. Lower income residents will not be steered toward lower income developments and higher income people will not be steered toward higher income developments.

The BWCHA's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a BWCHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a BWCHA with only one general occupancy development; developments approved for demolition or for conversion to resident-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

Steps for Implementation [24 CFR 903.2(c)(1)]

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the BWCHA must comply with the following steps:

Step 1. The BWCHA must determine the average income of all families residing in all the BWCHA's covered developments. The BWCHA may use the median income, instead of average income, provided that the BWCHA includes a written explanation in its annual plan justifying the use of median income.

> BWCHA Policy
>
> The BWCHA will determine the average income of all families in all covered developments on an annual basis.

Step 2. The BWCHA must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, the BWCHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

> BWCHA Policy
>
> Prior to the beginning of each fiscal year, BWCHA will analyze the income levels of families residing in each of its developments, the income levels of census tracts in which its developments are located, and the income levels of the families on the waiting list. Based on this analysis, BWCHA will determine the level of marketing strategies and incentives to implement.

Step 3. The BWCHA must then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. However, the upper limit must never be less than the income at which a family would be defined as an extremely low income family (30% of median income).

Step 4. The BWCHA with covered developments having average incomes outside the EIR must then determine whether or not these developments are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, the BWCHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances the BWCHA’s deconcentration policy may include, but is not limited to the following:

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments
- Establishing a preference for admission of working families in developments below the EIR

- Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the BWCHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and BWCHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the BWCHA's deconcentration policy. The BWCHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the BWCHA's deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, the BWCHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

BWCHA Policy

For developments outside the EIR the BWCHA will take the following actions to provide for deconcentration of poverty and income mixing:

BWCHA may offer one or more incentives to encourage applicant families whose income classification would help to meet the income goals of a particular development.

Various incentives may be used at different times, or under different conditions, but will always be provided in a consistent and nondiscriminatory manner.

Depending on local circumstances BWCHA’s deconcentration policy may include, but is not limited to the following:

Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities

Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments

Establishing a preference for admission of working families in developments below the EIR
Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration

Providing other strategies permitted by statute and determined by BWCHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and BWCHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under BWCHA's deconcentration policy. BWCHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under BWCHA's deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, BWCHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

Order of Selection [24 CFR 960.206(e)]

The BWCHA system of preferences may select families either according to the date and time of application or by a random selection process.

BWCHA Policy

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

When selecting applicants from the waiting list the BWCHA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The BWCHA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

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

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and BWCHA policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the BWCHA must notify the family.

BWCHA Policy

The BWCHA will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview

Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

If a notification letter is returned to the BWCHA with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the

part of the applicant prevents the BWCHA from making an eligibility determination; therefore no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the BWCHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

BWCHA Policy

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

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

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the BWCHA will proceed with the interview. If the BWCHA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the BWCHA 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 14 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

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

the interview process.

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

If the family is unable to attend a scheduled interview, the family should contact the BWCHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the BWCHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without BWCHA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents the BWCHA from making an eligibility determination, therefore the BWCHA will not offer an informal hearing.

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

The BWCHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including BWCHA suitability standards, the BWCHA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including resident selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

BWCHA Policy

The BWCHA will notify a family in writing of their eligibility within 14 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

Any time after final eligibility determination, applicants must report changes in family status, including income, family composition, and address, in writing, with fourteen (14) calendar days of the changed. If the family did not report the change within the required time frame, the family will be determined ineligible and offered an opportunity for an informal hearing.

The BWCHA 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 hearing on such determination [24 CFR 960.208(a)].

BWCHA Policy

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

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

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The BWCHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The BWCHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the BWCHA's Resident Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

> Part I: Occupancy Standards. This part contains the BWCHA's standards for determining the appropriate unit size for families of different sizes and types.
>
> Part II: Unit Offers. This part contains the BWCHA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

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

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the BWCHA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. PHAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

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

The BWCHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

> BWCHA Policy
>
> The BWCHA will use the same occupancy standards for each of its developments.
>
> The BWCHA's occupancy standards are as follows:

The BWCHA 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.

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

Single person families will be allocated a zero or one bedroom.

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

Space may be provided for a child who is away at school but lives with the family during school recesses.

Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.

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

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	2
1	1	3
2	2	5
3	3	7
4	4	At BWCHA discretion

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

BWCHA Policy

Types of Exceptions

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

When evaluating exception requests BWCHA will consider the size and configuration of the unit. In no case will BWCHA grant an exception that is in violation of local housing or occupancy codes, regulations, or laws.

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

1. Applicants may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to local codes). The family must agree not to request a transfer for a period of two years from the date of admission unless their family size or composition changes.

2. At BWCHA's discretion the family may be offered a unit smaller than the preferred unit size, based on BWCHA's occupancy standards, if in doing so the family has an opportunity to be housed earlier or live in a preferred project. In addition, domestic partners will be considered for a studio apartment.

3. BWCHA may offer a family a unit that is larger than required by BWCHA's occupancy standards, if the waiting list is short of families large enough to fill the vacancy, or BWCHA determines that the common area for the project is insufficient for accommodating any additional large families.

4. In all cases, where the family requests an exception to the general occupancy standards, BWCHA will evaluate the relationship and ages of all family members and the overall size of the unit.

5. The family may request to be placed on a larger bedroom size waiting list than indicated by BWCHA's occupancy guidelines. The request must explain the need or justification for a larger bedroom size and must be verified by the BWCHA before the family is placed on the larger bedroom size list. BWCHA will consider these requests:

Person with Disability

BWCHA will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified and meets requirements in Section 2, Accommodations Policy.

Other Circumstances

Circumstances may dictate a larger size than the occupancy standards permit when:

Persons cannot share a bedroom because of a need for medical equipment due to its size and/or function. Requests for a larger bedroom due to medical equipment must be verified by a licensed physician.

Requests based on health-related reasons must be verified by a licensed physician.

The BWCHA will not assign a larger bedroom size due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

All members of the family residing in the unit must be approved by the BWCHA. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform BWCHA within fourteen (14) calendar days.

To avoid vacancies, BWCHA 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. This requirement is a provision of the lease.

Processing of Exceptions

BWCHA Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the BWCHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the BWCHA will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

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

The BWCHA will notify the family of its decision within 14 calendar days of receiving the family's request.

PART II: UNIT OFFERS 24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

The BWCHA must assign 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 BWCHA must offer the dwelling unit to an applicant in the appropriate sequence. The BWCHA will offer the unit until it is accepted. This section describes the BWCHA'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 BWCHA's policies for offering units with accessibility features.

BWCHA Policy

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

5-II.B. NUMBER OF OFFERS

BWCHA Policy

The applicant will have the opportunity to make two refusals. If, on the third offer, the applicant rejects the offer, his or her name will be removed from the waiting list and he or she would have to re-apply.

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

BWCHA Policy

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

Offers made by telephone will be confirmed by letter.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

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

BWCHA Policy

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

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 BWCHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move

The unit has lead-based paint and the family includes children under the age of six

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 BWCHA will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

BWCHA Policy

When an applicant rejects the final unit offer without good cause, the BWCHA will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the BWCHA opens the waiting list.

5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

PHAs 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 BWCHA must offer such units:

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

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

BWCHA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the BWCHA will offer the unit to a non-disabled applicant.

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

5-II.F. DESIGNATED HOUSING

When applicable, the BWCHA's policies for offering units designated for elderly families only or for disabled families only are described in the BWCHA's Designated Housing Plan.

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

Chapter 6

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. The BWCHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and BWCHA policies related to these topics in three parts as follows:

> Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and BWCHA policies for calculating annual income are found in Part I.
> Part II: Adjusted Income. Once annual income has been established HUD regulations require the BWCHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and BWCHA policies for calculating adjusted income are found in Part II.
> Part III: Calculating Rent. This part describes the statutory formula for calculating total resident payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

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

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

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)

- Earned Income Disallowance (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

BWCHA Policy

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

Absent Students

BWCHA Policy

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

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

Absences Due to Placement in Foster Care

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

BWCHA Policy

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

Absent Head, Spouse, or Cohead

BWCHA Policy

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

Individuals Confined for Medical Reasons

BWCHA Policy

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

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

Joint Custody of Children

BWCHA Policy

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

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

Caretakers for a Child

BWCHA Policy
If neither a parent nor a designated guardian remains in a household receiving assistance, the BWCHA will take the following actions.

> If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
>
> If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the BWCHA will extend the caretaker's status as an eligible visitor.
>
> At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.
>
> During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

The BWCHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The BWCHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the BWCHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The BWCHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

BWCHA Policy
When the BWCHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the BWCHA will review and analyze historical data for patterns of employment, paid

benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the BWCHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

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

Example: An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case the BWCHA would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the BWCHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the BWCHA's policy on reexaminations does not require interim reexaminations for other types of changes.

Up-Front Income Verification (UIV) and Income Projection [24 CFR 5.233]

HUD requires the use of up-front income verification (UIV) techniques. UIV is "the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals" [VG, p. 7]. One such source is HUD's Enterprise Income Verification (EIV) system, which maintains data on three types of income: wages, unemployment benefits, and social security (SS) and supplemental security income (SSI) benefits.

HUD requires the BWCHA to use EIV data as third-party source to verify employment and income during all mandatory interim and reexams.

In the case of SS and SSI benefits, EIV should be used as third party verification only unless the tenant disputes the EIV. HUD expects the BWCHA to base its income projection on EIV and current pay stubs or employer letters. These sources of documentation can be provided by the tenant and must be dated within the last 60 days. Pay stubs must be consecutive. BWCHA will pursue traditional third party verifications if (1)The tenant is unable to provide documents requested by BWCHA; (2)The tenant provided documents are not acceptable to BWCHA; (3)The tenant disputes EIV and one or both of the other conditions apply.

BWCHA will follow "HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available" in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines substantial difference as a difference of $200 or more per month.

No Substantial Difference.

If UIV information for a particular income source differs from the information provided by a family by less than $200 per month, BWCHA will follow these guidelines:

If the UIV figure is less than the family's figure, BWCHA will use the family's information.

If the UIV figure is more than the family's figure, BWCHA will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, BWCHA will use the family-provided information.

Substantial Difference.

If UIV information for a particular income source differs from the information provided by a family by $200 or more per month, BWCHA will follow these guidelines:

BWCHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

When BWCHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), BWCHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.

BWCHA will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

BWCHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

6-I.D. EARNED INCOME
Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(b)(1)]
The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

> BWCHA Policy
> For persons who regularly receive bonuses or commissions, the BWCHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the BWCHA will use the prior year amounts. In either case the family may provide, and the BWCHA 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 BWCHA will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay
All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]
This type of income (including gifts) is not included in annual income.

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

Children's Earnings [24 CFR 5.609(c)(1)]
Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students
Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide
Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]
Income from some federal programs is specifically excluded from consideration as income, including:

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

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

Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]
Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the BWCHA, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the BWCHA's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Program
Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

> BWCHA Policy
> The BWCHA defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].
>
> The BWCHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].
>
> In calculating the incremental difference, the BWCHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.
>
> End of participation in a training program must be reported in accordance with the BWCHA's interim reporting requirements (see chapter on reexaminations).

HUD-Funded Training Programs
Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community

Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

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

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

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

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255]

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

Eligibility

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

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

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

> BWCHA Policy
> The BWCHA defines *prior income,* or *prequalifying income,* as the family member's last certified income prior to qualifying for the EID.

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

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

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

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

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

> BWCHA Policy
> During the 48-month eligibility period, the BWCHA will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Individual Savings Accounts [24 CFR 960.255(d)]

> BWCHA Policy
> The BWCHA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

The following rules pertaining to ISAs do not apply to this public housing program.

A qualified family paying income-based rent may choose an ISA instead of being given the EID. The BWCHA must advise the family that the ISA option is available. Families who choose the ISA will pay the higher rent and the BWCHA will deposit the difference between the higher rent and the EID rent in the savings account.
Amounts deposited to ISAs may only be withdrawn for the following reasons:

- Because the family is purchasing a home
- To pay education costs of family members
- Because the family is moving out of public or assisted housing
- To pay any other expenses the BWCHA authorizes to promote economic self-sufficiency

The BWCHA is required to maintain ISAs in interest bearing accounts, for which the family is credited with interest earned. The BWCHA may not charge the family a fee for maintaining the account.

At least once each year the BWCHA must provide the family with a statement of the balance in their account, including any interest earned, if required by state law.

BWCHA Policy
When applicable, the BWCHA will provide the family with a statement of the balance in their account, including any interest earned, annually and upon request when the family makes withdrawals from the account.

If the family moves out of public housing, the BWCHA must return the balance in the family's ISA, less any amounts the family owes the BWCHA.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]
Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses
Net income is "gross income less business expense" [HCV GB, p. 5-19].

BWCHA Policy
To determine business expenses that may be deducted from gross income, the BWCHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion
HUD regulations do not permit the BWCHA to deduct from gross income expenses for business expansion.

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

Capital Indebtedness
HUD regulations do not permit the BWCHA to deduct from gross income the amortization of capital indebtedness.

BWCHA Policy
Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the BWCHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

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

Withdrawal of Cash or Assets from a Business
HUD regulations require the BWCHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

BWCHA Policy
Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a resident family provided an up-front loan of $2,000 to help a business get started, the BWCHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

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

Minimum Income

BWCHA Policy
There is no minimum income requirement. Families who report zero income are required to complete a Personal Declaration every 90 days or 3 months.

Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

BWCHA will request credit checks for all adult members of families that report zero income.

Where credit reports show credit accounts open and payments current, BWCHA will take action to investigate the possibility of fraud or program abuse.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview
There is no asset limitation for participation in the public housing program. However, HUD requires that the BWCHA include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the BWCHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and BWCHA policies related to each type of asset.

General Policies

Income from Assets
The BWCHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the BWCHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the BWCHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the BWCHA can take into consideration past rental income along with the prospects of obtaining a new resident.

> BWCHA Policy
> Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present

information and documentation to the BWCHA to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

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

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

> BWCHA Policy
> Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

Lump-Sum Receipts

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

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

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

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets
The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

> BWCHA Policy
> If an asset is owned by more than one person and any family member has unrestricted access to the asset, the BWCHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.
>
> If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the BWCHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the BWCHA will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]
HUD regulations require the BWCHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold
The BWCHA may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

> BWCHA Policy
> The BWCHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.
>
> When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).
>
> Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

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

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

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

Family Declaration

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

Types of Assets

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

BWCHA Policy
In determining the value of a checking account, the BWCHA will use the average monthly balance for the last six months.

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

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

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds
Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

BWCHA Policy
In determining the market value of an investment account, the BWCHA will use the value of the account on the most recent investment report.

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

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

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

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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

<u>BWCHA Policy</u>

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

Trusts

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

Revocable Trusts
If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts
In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts
In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the BWCHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts
IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property
Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

> <u>BWCHA Policy</u>
> In determining the value of personal property held as an investment, the BWCHA will use the family's estimate of the value. The BWCHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
>
> Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal

property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

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

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

Life Insurance
The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].

Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

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

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Periodic Payments Excluded from Annual Income

Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the resident family, who are unable to live alone) [24 CFR 5.609(c)(2)]

BWCHA Policy
The BWCHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]

Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

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

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

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

Imputed Income
When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the BWCHA must include in annual income "imputed" welfare income. The BWCHA must request that the welfare agency inform the BWCHA when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

For special procedures related to grievance hearings based upon the BWCHA's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances, and Appeals.

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

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]
Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a resident family.

Alimony and Child Support
The BWCHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

> <u>BWCHA Policy</u>
> The BWCHA will count court-awarded amounts for alimony and child support unless the BWCHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

Regular Contributions or Gifts

The BWCHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a resident family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

BWCHA Policy

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

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

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

Reimbursement of medical expenses [24 CFR 5.609(c)(4)]

The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].

BWCHA Policy

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

Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]

Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]

Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]

Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]

Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]

Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:

(a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
(b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
(c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
(d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
(e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
(f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
(g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
(i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)
(j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
(k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
(l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
(m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
(n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
(o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
(p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
(q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
(r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of

a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

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

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require BWCHA to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (BWCHA) must deduct the following amounts from annual income:
> (1) $480 for each dependent;
> (2) $400 for any elderly family or disabled family;
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

BWCHA Policy

Generally, the BWCHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), the BWCHA 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 BWCHA 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 BWCHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as

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

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

The medical expense 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 [VG, p. 28].

Definition of *Medical Expenses*

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

BWCHA Policy

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

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, noncosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor	Cost and continuing care of necessary service animals
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Medical insurance premiums or the cost of a health maintenance organization (HMO)

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

Families That Qualify for Both Medical and Disability Assistance Expenses

BWCHA 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 medical or disability assistance expenses, the BWCHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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

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

BWCHA Policy
The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the BWCHA 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 BWCHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [PH Occ GB, p. 124].

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with

visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30]. HUD advises BWCHA to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

> BWCHA Policy
> Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

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

> BWCHA Policy
> Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.
>
> Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.
>
> If the care attendant also provides other services to the family, the BWCHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members
No disability expenses may be deducted for payments to a member of a resident family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the resident family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses
The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability

assistance expenses are necessary and are not paid or reimbursed by any other source.

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

Families That Qualify for Both Medical and Disability Assistance Expenses

BWCHA 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 medical or disability assistance expenses, the BWCHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

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

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [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.

Qualifying for the Deduction
Determining Who Is Enabled to Pursue an Eligible Activity

BWCHA 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 child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the BWCHA 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

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

Furthering Education

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

Being Gainfully Employed

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

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

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

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

The BWCHA 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].

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

Eligible Child Care Expenses
The type of care to be provided is determined by the resident family. The BWCHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

BWCHA 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 child care.

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

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

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

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

child care costs from the local welfare agency. Families may present, and the BWCHA will consider, justification for costs that exceed typical costs in the area.

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

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the BWCHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

BWCHA Policy
The BWCHA has opted not to use permissive deductions.

PART III: CALCULATING RENT

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

The first step in calculating income-based rent is to determine each family's total resident payment (TTP). Then, if the family is occupying a unit that has resident-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the resident rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the BWCHA.

TTP Formula [24 CFR 5.628]

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

30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)

10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)

The welfare rent (in as-paid states only)

A minimum rent between $0 and $50 that is established by the BWCHA

The BWCHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Minimum Rent [24 CFR 5.630]

BWCHA Policy
The minimum rent for this locality is $50.00. However, BWCHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

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

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the BWCHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

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

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

> BWCHA Policy
> The BWCHA chooses not to adopt optional changes to income-based rents.

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

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate resident rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based resident rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with resident-paid utilities) [PH Occ GB, p. 135].

> BWCHA Policy
> The BWCHA chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(3)]

Utility reimbursement occurs when any applicable utility allowance for resident-paid utilities exceeds the TTP. HUD permits the BWCHA to pay the reimbursement to the family or directly to the utility provider.

> BWCHA Policy
> The BWCHA will make utility reimbursements to the family.

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

Overview
If the BWCHA establishes a minimum rent greater than zero, the BWCHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the BWCHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship
Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

BWCHA Policy
A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

BWCHA Policy
For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or resident-paid utilities.

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

(4) A death has occurred in the family.

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

(5) The family has experienced other circumstances determined by the BWCHA.

BWCHA Policy
The BWCHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship
When a family requests a financial hardship exemption, the BWCHA must suspend the minimum rent requirement beginning the first of the month following the family's request. The BWCHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

BWCHA Policy
The BWCHA defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

The BWCHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

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

Example: Impact of Minimum Rent Exemption Assume the BWCHA has established a minimum rent of $35.			
TTP – No Hardship		**TTP – With Hardship**	
$0	30% of monthly adjusted income	$0	30% of monthly adjusted income
$15	10% of monthly gross income	$15	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
$35	Minimum rent	$35	Minimum rent
Minimum rent applies. TTP = $35		Hardship exemption granted. TTP = $15	

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

The BWCHA will make the determination of hardship within 30 calendar days.

No Financial Hardship
If the BWCHA determines there is no financial hardship, the BWCHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the BWCHA's denial of a hardship exemption, see Chapter 14, Grievances, and Appeals.

BWCHA Policy
The BWCHA will require the family to repay the suspended amount within 30 calendar days of the BWCHA's notice that a hardship exemption has not been granted.

Temporary Hardship
If the BWCHA determines that a qualifying financial hardship is temporary, the BWCHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay the BWCHA the amounts suspended. HUD requires the BWCHA to offer a reasonable repayment agreement, on terms and conditions established by the BWCHA. The BWCHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the BWCHA's denial of a hardship exemption, see Chapter 14, Grievances, and Appeals.

BWCHA Policy
The BWCHA will enter into a repayment agreement in accordance with the BWCHA's repayment agreement policy (see Chapter 16).

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

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

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

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the BWCHA must use the utility allowance applicable to the type of dwelling unit leased by the family.
For policies on establishing and updating utility allowances, see Chapter 16.

Utility allowance

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

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

For BWCHA paid utilities, BWCHA will monitor the utility consumption of each household. Any consumption in excess of the allowance established by BWCHA will be the obligation of the Resident and for those charges for utilities in excess of the allowance charged or billed to BWCHA will be billed to the Resident monthly.

Utility allowance revisions based on annual review shall be effective 60 days after notice to residents. Revisions based on changes in consumption or other reasons shall become effective at each family's next annual recertification.

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

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

Requests for relief from surcharges for excess consumption of BWCHA purchased utilities or from payment of utility supplier billings in excess of the utility allowance for Resident-paid

utility costs may be granted by BWCHA on reasonable grounds. Requests shall be granted to families that include an elderly member or a member with disabilities that include an elderly member or a member with disabilities. Requests by the family shall be submitted under the Reasonable Accommodation Policy in Chapter 2. Families shall be advised of their right to individual relief at admission to public housing and at the time of utility allowance changes.

Resident Paid Utilities

When a resident makes application for utility service in his/her own name, he or she must sign a third party notification agreement so that BWCHA will be notified if the resident fails to pay the utility bill.

If a resident or applicant is unable to get utilities connected because of a previous balance owed to the utility company, the resident/applicant will not be permitted to move into a unit with resident paid utilities. This may mean that a current resident cannot transfer to a scattered site or that an applicant cannot be admitted to a unit with resident-paid utilities.

Paying the utility bill is the resident's obligation under the lease. Failure to pay utilities is grounds for eviction.

Reasonable Accommodation [24 CFR 8]
On request from a family, BWCHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172]. See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]
The BWCHA must review its schedule of utility allowances each year. Between annual reviews, the BWCHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective [PH Occ GB, p. 171].

The resident rent calculations must reflect any changes in the BWCHA's utility allowance schedule [24 CFR 960.253(c)(3)].

> <u>BWCHA Policy</u>
> Unless the BWCHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

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

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The BWCHA must prorate the assistance provided to a mixed family. The BWCHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the BWCHA must:

(1) Subtract the TTP from a maximum rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the maximum rent. This is the prorated TTP.

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

BWCHA Policy

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

For policies related to the establishment of the public housing maximum rent see Chapter 16.

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

Flat Rents [24 CFR 960.253(b)]

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

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

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

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

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

BWCHA Policy
The annual BWCHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination. The BWCHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the resident file as part of the admission or annual reexamination process.

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

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]
A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the BWCHA determines that a financial hardship exists, the BWCHA must immediately allow the family to switch from flat rent to the income-based rent.

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

Reasons for financial hardship include:

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

BWCHA Policy
The BWCHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Change in Flat Rents

BWCHA Policy
Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit [PH Occ GB, pp. 137-138].

Flat Rents and Earned Income Disallowance [A&O FAQs]
Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID.

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

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

Flat Rents and Mixed Families [A&O FAQs]
Mixed families electing to pay flat rent must first have a flat rent worksheet completed to see if the flat rent must be prorated. The worksheet is located in Appendix III of the *Form HUD-50058 Instruction Booklet*.

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

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

PAYING RENT
On or before the first day of each and every month (after the initial period), the Resident shall pay the monthly rent indicated the lease, plus any extra charges, for the term of the monthly agreement. If the Resident does not pay the full amount of the rent by the end of the 5th day of the month, BWCHA may collect a fee of $10.00 on the 6th day of the month. A $15.00 late processing fee will be assessed to residents who receive 14-Day Notices to pay or vacate. If the 5th of any month falls on a weekend or holiday the late fees for non-payment of rent will be assessed on the next business day. If the resident receives (4) four 14-DAY NOTICES for non-payment of rent in a calendar year, the resident will receive thirty (30) days written notice of termination for material or repeated lease violations.

Payments shall be applied to amounts owed by the resident in the following manner:

A. Payments shall first be applied to payment of Resident's security deposit.

B. Payments shall next be applied to any maintenance, utilities, and legal costs

C. incurred by BWCHA as a result of Resident's tenancy:

D. Payments shall next be applied to any late fees incurred by the Resident:

E. Payments shall lastly be applied to any unpaid rent owed by the Resident:

Reasonable accommodations for this requirement will be made for persons with disabilities. As a safety measure, no cash shall be accepted as a rent payment

If rent is paid by a personal check and the check is returned for insufficient funds, this shall be considered a non-payment of rent and will incur the late charge plus an additional charge of $15 for processing costs.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

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

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

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

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

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

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

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

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

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

(6) Welfare assistance payments.

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

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

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

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

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

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

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

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

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

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

HHS DEFINITION OF "ASSISTANCE"

45 CFR: General Temporary Assistance for Needy Families

260.31 What does the term "assistance" mean?

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

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

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

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

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

(b) [The definition of "assistance"] excludes:
(1) Nonrecurrent, short-term benefits that:

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

provide basic income support; and

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

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) *Annual income does not include the following:*

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

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

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

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

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

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

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

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

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

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

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

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to BWCHA and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

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

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, BWCHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or resident for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or resident receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

24 CFR 960.255 Self-sufficiency incentive–Disallowance of increase in annual income.

(a) *Definitions*. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the BWCHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least $500.

(b) *Disallowance of increase in annual income*.

(1) *Initial twelve month exclusion*. During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the BWCHA must exclude from annual income (as defined in 5.609 of this title) of a qualified family any increase in income of the family member as a result of employment over prior income of that family member.

(2) *Second twelve month exclusion and Phase-in*. During the second cumulative twelve month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the BWCHA must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) *Maximum four year disallowance*. The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48 month period. It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month period starting from the initial exclusion under paragraph (b)(1) of this section.

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

(d) *Individual Savings Accounts*. As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a BWCHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The BWCHA must advise the family that the savings account option is available;

(2) At the option of the family, the BWCHA must deposit in the savings account the total amount that would have been included in resident rent payable to the BWCHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the BWCHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The BWCHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the BWCHA may not charge a fee for maintaining the account;

(5) At least annually the BWCHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the BWCHA shall pay the resident any balance in the account, minus any amounts owed to the BWCHA

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 resident-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 resident-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the BWCHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the BWCHA, the welfare agency will inform the BWCHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the BWCHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The BWCHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the BWCHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the BWCHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The BWCHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of BWCHA decision.*

(1) Public housing. If a public housing resident claims that the BWCHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the BWCHA denies the family's request to modify such amount, the BWCHA shall give the resident written notice of such denial, with a brief explanation of the basis for the BWCHA determination of the amount of imputed welfare income. The BWCHA notice shall also state that if the resident does not agree with the BWCHA determination, the resident may request a grievance hearing in accordance with part 966, subpart B of this title to review the BWCHA determination. The resident is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of resident rent attributable to the imputed welfare income in order to obtain a grievance hearing on the BWCHA determination.

(2) Section 8 participant. A participant in the Section 8 resident-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the BWCHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the BWCHA denies the family's request to modify such amount, the BWCHA shall give the family written notice of such denial, with a brief explanation of the basis for the BWCHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the BWCHA determination, the family may request an informal hearing on the determination under the BWCHA hearing procedure.

(e) *BWCHA relation with welfare agency.*

(1) The BWCHA must ask welfare agencies to inform the BWCHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the BWCHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The BWCHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the BWCHA. However, the BWCHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The BWCHA shall be entitled to rely on the welfare agency notice to the BWCHA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION
[24 CFR 960.259, 24 CFR 5.230]

INTRODUCTION
The BWCHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and residents must cooperate with the verification process as a condition of receiving assistance. The BWCHA must not pass on the cost of verification to the family.

The BWCHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance ("VG") and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary BWCHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the BWCHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]
The family must supply any information that the BWCHA or HUD determines is necessary to the administration of the program and must consent to BWCHA verification of that information [24 CFR 960.259(a)(1)].

Consent Forms
It is required that all adult applicants and residents sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the BWCHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]
If any family member who is required to sign a consent form fails to do so, the BWCHA will deny admission to applicants and terminate the lease of residents. The family may request a hearing in accordance with the BWCHA's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [VG, p. 11-14]

HUD authorizes the BWCHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the BWCHA to use the most reliable form of verification that is available and to document the reasons when the BWCHA uses a lesser form of verification.

BWCHA Policy

In order of priority, the forms of verification that the BWCHA will use are:

- Up-front Income Verification (UIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the Verification Guidance that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

BWCHA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 90 calendar days of the date they are provided to the BWCHA. The documents must not be damaged, altered or in any way illegible.

The BWCHA will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the BWCHA would accept the most recent report.

Print-outs from web pages are considered original documents.

The BWCHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the BWCHA and must be signed in the presence of a BWCHA representative or BWCHA notary public.

File Documentation
The BWCHA 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 BWCHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

BWCHA Policy
The BWCHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When the BWCHA is unable to obtain 3rd party verification, the BWCHA will document in the family file the reason that third-party verification was not available and will place a photocopy of the original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)
Up-front income verification (UIV) refers to the BWCHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the BWCHA.

BWCHA Policy
The BWCHA will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

BWCHA must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

1. Definition of Substantial Difference

UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available," HUD recommends using $200 per month as the threshold for a substantial difference. BWCHA will use the $200

per month as the threshold for a substantial difference.
See Chapter 7 for BWCHA's policies on the definition of substantial difference and the use of UIV to project annual income and for BWCHA's threshold for substantial difference.

2. When No Substantial Difference Exists

If UIV information does not differ substantially from family information, the UIV documentation may serve as third-party written verification.

3. When a Substantial Difference Exists [24 CFR 5.236(b)]

When there is a substantial difference between the information provided by the UIV source and the family, BWCHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

There may be legitimate differences between the information provided by the family and UIV-generated information. The BWCHA may not take any adverse action against a family based solely on UIV data unless the family does not dispute the data. The BWCHA must independently verify any UIV data that the family disputes, and, before taking any adverse action, it must give the family the opportunity to contest the action through the BWCHA's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

Use of HUD's Enterprise Income Verification (EIV) System
HUD's EIV system contains data showing earned income, unemployment benefits, and social security (SS) and supplemental security income (SSI) benefits for resident families. HUD requires the BWCHA to use the EIV system. The following policies apply to use of HUD's EIV system.

The EIV system contains two main components: income reports and income discrepancy reports.

Income Reports
The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

BWCHA Policy
The BWCHA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. When the family does not dispute the UIV data, income reports may be used to meet the regulatory requirement for third-party verification.

Income reports will be used in interim reexaminations when necessary to verify employment income, unemployment benefits, and SS/SSI benefits and to verify that

families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.

When the BWCHA determines through income reports and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, "Program Integrity."

Income Discrepancy Reports (IDRs)

The income discrepancy report (IDR) is a tool for identifying families that may have concealed or underreported income. Data in the IDR represents income for past reporting periods and may be between 6 and 30 months old at the time the report is generated.

Families that have not concealed or underreported income may appear on the IDR in some circumstances, such as loss of a job or addition of new family members.

BWCHA Policy

The BWCHA will generate and review IDRs at least semiannually. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, the BWCHA will begin with the largest discrepancies.

When the BWCHA determines that a resident appearing on the IDR has not concealed or underreported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or underreported income, the BWCHA will request independent third-party written verification of the income in question.

When the BWCHA determines through IDR review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, "Program Integrity."

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

BWCHA Policy

The BWCHA will identify residents whose identity verification has failed as part of the

annual reexamination process.

The BWCHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the BWCHA determines that discrepancies exist as a result of BWCHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the BWCHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

BWCHA Policy

The BWCHA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The BWCHA may mail, fax, e-mail, or hand-deliver third-party written verification requests and will accept third-party responses using any of these methods. The BWCHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 14 calendar days to respond in writing. If a response has not been received by the 11th business day, the BWCHA will request third-party oral verification.

The BWCHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, BWCHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds orally to the initial written request for verification, the BWCHA will accept the oral response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the BWCHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, the BWCHA will use any information provided orally in combination with reviewing family-provided documents (see below).

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the BWCHA will use the information from documents on a provisional basis. If the BWCHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the BWCHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the BWCHA's interim reexamination policy.

When Third-Party Verification is Not Required

Primary Documents
Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Certain Assets and Expenses
The BWCHA may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The BWCHA may determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

> BWCHA Policy
> The BWCHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $500 annually and the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources
The BWCHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the BWCHA will rely upon review of documents when the BWCHA determines that a third party's privacy rules prohibit the source from disclosing information.

> BWCHA Policy
> The BWCHA will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.
>
> If the family cannot provide original documents, the BWCHA 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].
> The BWCHA will document, in the family file, the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family

file. [VG, p. 15]

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

BWCHA Policy
If the BWCHA has determined that third-party verification is not available or not required, the BWCHA will use documents provided by the family as verification.

The BWCHA may also review documents when necessary to help clarify information provided by third parties. In such cases the BWCHA will document in the file how the BWCHA arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

BWCHA 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 BWCHA.

The BWCHA 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 BWCHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a BWCHA representative or BWCHA notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

BWCHA Policy
The BWCHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children

Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the BWCHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the BWCHA and be signed in the presence of a BWCHA representative or BWCHA notary public.

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV, p. 5-12]

For every family member, the family must provide documentation of a valid social security number (SSN). Individuals exempt from disclosure are as follows:

- Individuals who do not contend to have eligible immigration status
- Tenants age 62 or older as of 1/31/2010
- Tenants who have previously disclosed a valid SSN

<u>BWCHA Policy</u>

The BWCHA will also accept the following documents as evidence if the SSN is provided on the document:

- Original Social Security card issued by the SSA; or
- An original document issued by:
  - Federal government agency (e.g. SSA, IRS, etc.); or
  - State government agency
    - Documents must contain the SSN of the individual, along with other indentifying information such as name, address, date of birth, etc. (e.g. Unemployment office, Department of Social Services, Child Support Office, tec.).

If the family reports an SSN but cannot provide acceptable documentation of the number, the BWCHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The BWCHA will require documentation of the SSN within 90 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

BWCHA Policy
The BWCHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

- Addition of new household member under the age of 6 and no assigned SSN:
  - Individual is included as a household member and entitled to benefits (Generate PIC Alt ID)
  - Head of Household is provided 90 days to provide documentation of the SSN.
  - BWCHA may extend the timeframe to obtain SSN documentation an additional 90 days if the household can prove unforeseen circumstances outside their control prevented timely disclosure of the required documentation.
- Addition of new household members at least 6 years of age or under the age of 6 and has an assigned SSN:
  - The tenant must disclose the SSN and provide documentation of the SSN to BWCHA at the time of request to add new household member or during interim reexamination.
  - The new household member cannot be added to the family composition until the family has complied with SSN disclosure and verification requirements.

BWCHA may reject tenant provided SSN documentation for the following reasons:
- Document is not an original
- Original document has been altered, mutilated, or not legible; or
- Document appears to be a forged documents

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

If any family member obtains a new SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, any new family member must submit valid SSN documentation and be approved by BWCHA prior to residing in the unit.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE
A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the

receipt of social security retirement benefits is acceptable.

BWCHA Policy
If an official record of birth or evidence of social security retirement benefits cannot be provided, the BWCHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and residents are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

BWCHA Policy
Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

BWCHA Policy
Certification by the head of household is normally sufficient verification. If the BWCHA has reasonable doubts about a marital relationship, the BWCHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

BWCHA Policy

Certification by the head of household is normally sufficient verification. If the BWCHA has reasonable doubts about a separation or divorce, the BWCHA will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

For Split Households: Domestic Violence:

Verification of domestic violence when assessing applicant split households includes:

- Shelter for battered persons
- Police reports
- District Attorney's office

Absence of Adult Member

BWCHA Policy
If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

BWCHA will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Protective or restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
- Verification statements provided from other agencies such as social services that the adult family member is no longer living at that location.
- If no other proof can be provided, the BWCHA will accept a Notarized Statement from the family.
- If the adult family member is incarcerated, a document from the court or prison should be obtained stating how long they will be incarcerated

Foster Children and Foster Adults

BWCHA Policy
Third-party verification from the state or local government agency responsible for the

placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

BWCHA Policy

The BWCHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or cohead, or
- The family claims a child care deduction to enable a family member to further his or her education.

Third party verification will be a letter from the school.

7-II.F. DOCUMENTATION OF DISABILITY

The BWCHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The BWCHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The BWCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the BWCHA receives a verification document that provides such information, the BWCHA will not place this information in the resident file. Under no circumstances will the BWCHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov.

The BWCHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

BWCHA Policy

For family members claiming disability who receive disability payments from the SSA, the BWCHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the BWCHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the BWCHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, it will be required to provide the letter to the BWCHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

BWCHA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and BWCHA verification requirements related to citizenship status.

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

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The BWCHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

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

Eligible Immigrants

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

BWCHA Verification [HCV GB, pp 5-3 and 5-7]
For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the BWCHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).
The BWCHA will follow all USCIS protocols for verification of eligible immigration status.

BWCHA Policy
Family members who do not claim to be citizens, nationals, or eligible non-citizens must be listed on a statement of non-eligible members, and the list must be signed by the head of the household.

Non-citizen students on student visas, though in the country legally, are not eligible to be admitted to public housing.

Any family member who does not choose to declare their status must be listed on the statement of non-eligible members.

If no family member is determined to be eligible under this section, the family's eligibility will be denied.

The family's assistance will not be denied, delayed, reduced, or terminated because of a delay in the process of determining eligible status under this section, except to the extent that the delay is caused by the family.

If the BWCHA determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their public housing unit, the family's lease will be terminated. Such family will

not be eligible to be readmitted to public housing for a period of 24 months from the date of eviction or termination.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The BWCHA must verify any preferences claimed by an applicant.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides BWCHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

BWCHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

BWCHA Policy

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The BWCHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the BWCHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.
If a family member has been self-employed less than three (3) months, the BWCHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the BWCHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

BWCHA Policy
To verify the SS/SSI benefits of applicants, the BWCHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the BWCHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family has received the original benefit verification letter, it will be required to provide the letter to the BWCHA.

To verify the SS/SSI benefits of residents, the BWCHA will obtain information about social security/SSI benefits through HUD's EIV system. If benefit information is not available in the EIV system, the BWCHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the BWCHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family has received the benefit verification letter, it will be required to provide the letter to the BWCHA.

7-III.D. ALIMONY OR CHILD SUPPORT

BWCHA Policy
The way the BWCHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be sought in the following order.

- If payments are made through a state or local entity, the BWCHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

- Third-party verification from the person paying the support

- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs

- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value
The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The BWCHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

BWCHA Policy
The BWCHA will verify the value of assets disposed of only if:

- The BWCHA does not already have a reasonable estimation of its value from previously collected information, or

- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the BWCHA verified this amount. Now the person reports that she has given this $10,000 to her son. The BWCHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.
Example 2: A family member has disposed of its 1/4 share of real property located in a

desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the BWCHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

BWCHA Policy
The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current resident
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the BWCHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

BWCHA Policy
When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the BWCHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the BWCHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

After retirement, the BWCHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The BWCHA must obtain verification for income exclusions only if, without verification, the

BWCHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the BWCHA will confirm that BWCHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

BWCHA Policy
The BWCHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). In all other cases, the BWCHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

BWCHA Policy
The BWCHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by families claiming to have zero annual income.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the BWCHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The BWCHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The BWCHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

BWCHA Policy

The BWCHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible
If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the BWCHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The BWCHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the BWCHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household
The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The BWCHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the BWCHA's policy on what counts as a medical expense.

Unreimbursed Expenses
To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

BWCHA Policy
The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

BWCHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the BWCHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

Costs incurred in past yeas are counted only once.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

BWCHA Policy
The BWCHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

BWCHA Policy
Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the BWCHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities
To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The BWCHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work
The BWCHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

> BWCHA Policy
> The BWCHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).
>
> If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses
To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

> BWCHA Policy
> An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.
>
> The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES
Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the BWCHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.

- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child
To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The BWCHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense
To be eligible for the child care deduction, the costs must not be reimbursed by another source.

> BWCHA Policy
> The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.
>
> The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity
The BWCHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

> BWCHA Policy
> *Information to be Gathered*
> The BWCHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.
>
> *Seeking Work*
> Whenever possible the BWCHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the BWCHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the BWCHA any reports provided to the other agency.
>
> In the event third-party verification is not available, the BWCHA will provide the family with a form on which the family member must record job search efforts. The BWCHA will review this information at each subsequent reexamination for which this deduction is claimed.
>
> *Furthering Education*

The BWCHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment
The BWCHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care
The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

BWCHA Policy
The BWCHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The BWCHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The BWCHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses
Only reasonable child care costs can be deducted.

BWCHA Policy
The actual costs the family incurs will be compared with the BWCHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the BWCHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Excerpt from HUD Verification Guidance Notice (PIH 2004-01, pp. 11-14)

Upfront (UIV)	Highest (Highly Recommended, highest level of third party verification)
Written 3rd Party	High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)
Oral 3rd Party	Medium (Mandatory if written third party verification is not available)
Document Review	Medium Low (Use on provisional basis)
Tenant Declaration	Low (Use as a last resort)

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of employer matching [illegible] State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person. Agreements with private or other agencies, such as [illegible] or ChoicePoint, to obtain wage and salary information. Use of HUD system if not available.	The PHA mails, faxes, or emails a verification form to the employer requesting wage information. The PHA may have the tenant sign a request for Employer Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.	In the event the independent source does not respond to the PHA within [illegible] requested information, the PHA may contact the independent source by phone or in person visit to obtain the requested information.	When another form of third party verification is not available, the PHA may accept original documents such as earnings statements, pay stubs, or W-2. HUD recommends the PHA review at least three months of pay stubs if employed by the same employer. [illegible] W-2 forms, etc. from the tenant. Note: The PHA must document in the tenant file the reason third party verification was not available.	The PHA may accept a notarized statement or other written affirmation from the family of the amount of income. Note: The PHA must document in the tenant file why third party verification was not available.

Verification of Employment Income. The PHA should always obtain as much information as possible about the employment, such as the date (new employment, termination, or change in employment), pay frequency, pay rate, anticipated pay increases or bonuses, [illegible] and the position of the person submitting the employment verification form.

Effective Date of Employment. The PHA should always confirm start and termination dates of employment.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self-Employment	Not Available	The PHA may rely on business records prepared by a competent third party to verify reported income.	The PHA may call the business or client to verify income.	The PHA may review invoices, or business records, or business invoices and letters from customers/clients. They be lenient to verify self-employment income. Note: The PHA must document in the tenant file the reason third party verification was not obtained.	The PHA may accept, if not available and on all fronts from the tenant file review. The family's total annual income from self-employment. Note: The PHA must document in the tenant file the reason third party verification was not available.
Verification of Self-Employment Income: Typically [illegible] PHA [illegible] Self-employment income. [illegible] PHA [illegible] declaration that includes a perjury statement.					
Social Security Benefits	Use of TUC's Tenant Assessment System (TASS) to obtain current Social History and Discrepancy reports.	The PHA may rely on business records prepared by a competent third party or the local SSA office to obtain social security benefit information. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may call SSA, or the local [illegible] to obtain current income. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may accept a copy of SSA Notice from the tenant. Note: The PHA must document in the tenant file. The reason third party verification was not available.	The PHA may accept, if not available and on all fronts from the tenant, the tenant's monthly social security benefits. Note: The PHA must document in the tenant file the reason third party verification was not available.
Welfare Benefits	Use of [illegible] matching applicants with the local Social Services Agency to obtain current benefit amount electronically, by mail or face to face in person.	The PHA may rely on business records prepared by a competent third party or the local Social Services agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current welfare amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. Note: The PHA must document in the tenant file. The reason third party verification was not available.	The PHA may accept, if not available and on all fronts from the tenant, the tenant's current welfare benefits. Note: The PHA must document in the tenant file the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person	The PHA mails, faxes or emails a written form directly to the local Child Support Enforcement Agency or child support payee to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payee to obtain current child support amount and payment status.	The PHA may review an original or current printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. **Note:** The PHA must document in the tenant file. The reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. **Note:** The PHA must document in the tenant file. The reason third party verification was not available.
Unemployment Benefits	Use of an online matching agreement with the State Wage Information Collection Agency to obtain unemployment compensation information electronically, by mail or fax or in person Use of IVES systems, when available.	The PHA mails, faxes or emails a written form directly to the State Wage Information Collection Agency to obtain unemployment compensation information	The PHA may call the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may review an original or current notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. **Note:** The PHA must document in the tenant file. The reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. **Note:** The PHA must document in the tenant file. The reason third party verification was not available.
Pension	Use of an online matching agreement with a Federal, State or Local Government Agency to obtain pension information electronically, by mail or fax or in person	The PHA mails, faxes or emails a written form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current pension amount.	The PHA may review an original or current notice from the pension provider provided by the tenant. **Note:** The PHA must document in the tenant file. The reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amount. **Note:** The PHA must document in the tenant file. The reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with financial institutions and use income information electronically, by mail or in person	The PHA mails, faxes, or makes verbal contact directly with a source to obtain asset and asset income information	The PHA may call [illegible] to obtain asset and income information	The PHA may review original documents provided by the tenant. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**	The PHA may accept a notarized statement or other [illegible] from the tenant for assets and asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available**
Comments	Wherever HUD makes available [illegible] Unemployment and SSA information the PHA should use the information as part of the [illegible] process. Failure to [illegible] disallowed costs during a SEMAP review.	**Note:** The independent source may [illegible] the form directly to the PHA. Agency The tenant should not [illegible] documents to [illegible] the independent source	The PHA should document in the [illegible] the date and time of the telephone call, [illegible] along with the name and title of the person the PHA verifies the correct income amount		The PHA should use this verification [illegible] research, when all other verification methods are not possible or have been unsuccessful. Notarized statement should include a perjury penalty statement

Note: The PHA must not raise verification costs owing to the participant.

Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim recertifications (this policy should be apart of the PHA's written policies.)

Exhibit 7-2: Summary of Documentation Requirements for Noncitizens
[HCV GB, pp. 5-9 and 5-10)

<table>
<tr><td colspan="2">

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the BWCHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

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Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

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All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

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<tr><td>

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - “Admitted as a Refugee Pursuant to Section 207”
  - “Section 208” or “Asylum”
  - “Section 243(h)” or “Deportation stayed by Attorney General”
  - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

</td><td>

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

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- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

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Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

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- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

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Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the basis of the legal relationship between the BWCHA and the resident. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require the BWCHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the BWCHA may require additional inspections in accordance with BWCHA policy.

This chapter is divided into two parts as follows:

> Part I: Leasing. This part describes pre-leasing activities and the BWCHA's policies pertaining to lease execution, modification, and payments under the lease.
>
> Part II: Inspections. This part describes the BWCHA's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the BWCHA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information, when applicable, as well as the BWCHA's policies governing leasing issues.

8-I.B. LEASE ORIENTATION

> BWCHA Policy
>
> After unit acceptance but prior to occupancy, a BWCHA representative will provide a lease orientation to the family. The head of household or spouse is required to attend.

Orientation Agenda

> BWCHA Policy
>
> When families attend the lease orientation, they will be provided with:
>
> - A copy of the lease
> - A copy of the BWCHA's grievance procedure

- A copy of the house rules
- A copy of the pamphlet *Protect Your Family From Lead in Your Home*
- A copy of *Things You Should Know* (HUD-1140-OIG)

Topics to be discussed will include:

- Applicable deposits and other charges
- Review and explanation of lease provisions
- Unit maintenance and work orders
- The BWCHA's reporting requirements
- Explanation of occupancy forms
- Community service requirements
- Family choice of rent
- Admissions and Continued Occupancy Policy

8-I.C. EXECUTION OF LEASE

The lease must be executed by the resident and the BWCHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one BWCHA unit to another.

The lease must state the composition of the household as approved by the BWCHA (family members and any BWCHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

<u>BWCHA Policy</u>

The head of household, spouse, or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the BWCHA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to BWCHA assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the resident and the BWCHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The BWCHA may modify its lease from time to time. However, the BWCHA must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the

changes. The BWCHA must also consider any comments before formally adopting the new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

BWCHA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each resident; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and residents on request [24 CFR 966.5].

BWCHA Policy

When the BWCHA proposes to modify or revise schedules of special charges or rules and regulations, the BWCHA will post a copy of the notice in the central office, and at each site.

Other Modifications

BWCHA Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and BWCHA will be required to initial and date the change.

If a new household member is approved by the BWCHA to reside in the unit, the person's name and birth date will be added to the lease. The head of household and BWCHA will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the BWCHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the BWCHA. The BWCHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the resident after vacating the unit, or used for resident services or activities.

BWCHA Policy

Residents must pay a security deposit to the BWCHA at the time of admission. The family or person will pay a security deposit of $375 for a family unit and $225 for an elderly unit.

In exceptional situations BWCHA reserves the right to allow a new resident to pay their security deposit in up to three (3) payments: one-third paid in advance, one-third paid with their second month's rent, and one-third with their third month's rent payment. This shall be at the sole discretion of BWCHA and on a case-by-case basis.

The BWCHA will hold the security deposit for the period the family occupies the unit. The BWCHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the BWCHA will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The BWCHA will provide the resident with a written list of any charges against the security deposit within 14 business days of the move-out inspection. If the resident disagrees with the amount charged, the BWCHA will provide a meeting to discuss the charges.

If the resident transfers to another unit, the BWCHA will transfer the security deposit to the new unit. The resident will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly resident rent determined by the BWCHA in accordance with HUD regulations and other requirements. The amount of the resident rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the resident rent at the beginning of the initial lease term, and the BWCHA must give written notice stating any change in the amount of resident rent and when the change is effective.

BWCHA Policy

The resident rent is due and payable at the BWCHA-designated location on the first of

every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's resident rent changes, the BWCHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

At the option of the BWCHA, the lease may provide for payment of penalties when the family is late in paying resident rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the BWCHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the BWCHA grievance procedures. The BWCHA must not take the proposed action until the time for the resident to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BWCHA Policy

If the family fails to pay their rent by the fifth day of the month, and the BWCHA has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of $10.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. A $15.00 late processing fee will be assessed to residents who receive 14-Day Notices to pay or vacate. If the family requests a grievance hearing within the required timeframe, the BWCHA may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $15.00 will be charged to the family. The fee will be due and payable 14 days after billing.

Excess Utility Charges

If the BWCHA charges the resident for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major resident-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by

reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and residents on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the BWCHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the BWCHA grievance procedures. The BWCHA must not take the proposed action until the time for the resident to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BWCHA Policy

When applicable, families will be charged for excess utility usage according to the BWCHA's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the BWCHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

If the BWCHA charges the resident for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and residents on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the BWCHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the BWCHA grievance procedures. The BWCHA must not take the proposed action until the time for the resident to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BWCHA Policy

When applicable, families will be charged for maintenance and/or damages according to the BWCHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the BWCHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require the BWCHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the BWCHA may require additional inspections, in accordance with BWCHA Policy. This part contains the BWCHA's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease must require the BWCHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the BWCHA and the resident, must be provided to the resident and be kept in the resident file.

BWCHA Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

The BWCHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the resident vacates without notice to the BWCHA. The BWCHA must provide to the resident a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

BWCHA Policy

When applicable, the BWCHA will provide the resident with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 14 business days of conducting the move-out inspection.

Annual Inspections

Under the Public Housing Assessment System (PHAS), the BWCHA is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) [24 CFR 902.43(a)(4)].

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

BWCHA Policy

Supervisory quality control inspections will be conducted in accordance with the BWCHA's maintenance plan.

Special Inspections

BWCHA Policy

BWCHA staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists

Other Inspections

BWCHA Policy

Building exteriors, grounds, common areas, and systems will be inspected according to the BWCHA's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The BWCHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing.

A written statement specifying the purpose of the BWCHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

BWCHA Policy

The BWCHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the BWCHA to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]

The BWCHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the BWCHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

BWCHA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the BWCHA at least 24 hours prior to the scheduled inspection. The BWCHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The BWCHA may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

BWCHA Policy

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection, and leave a copy of the inspection report in the unit.

8-II.D. INSPECTION RESULTS

The BWCHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the resident must immediately notify the BWCHA of the damage, and the BWCHA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the BWCHA must charge the family for the reasonable cost of repairs. The BWCHA may also take lease enforcement action against the family.

If the BWCHA cannot make repairs quickly, the BWCHA must offer the family standard alternative accommodations. If the BWCHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

BWCHA Policy

When conditions in the unit are hazardous to life, health, or safety, the BWCHA will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health, or safety include, but are not limited to, the following:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit

Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

Non-emergency Repairs

BWCHA Policy

The BWCHA will correct non-life threatening health and safety defects within 15 business days of the inspection date. If the BWCHA is unable to make repairs within that period due to circumstances beyond the BWCHA's control (e.g. required parts or services are not available, weather conditions, etc.) the BWCHA will notify the family of an estimated date of completion.

The family must allow the BWCHA access to the unit to make repairs.

Resident-Caused Damages

BWCHA Policy

Damages to the unit beyond wear and tear will be billed to the resident in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

BWCHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the BWCHA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

Chapter 9

REEXAMINATIONS
[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION
The BWCHA is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. BWCHA must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the BWCHA must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires the BWCHA to offer all families the choice of paying income-based rent or flat rent at least annually. The BWCHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the BWCHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the BWCHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and BWCHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Resident Rent. After gathering and verifying required information for an annual or interim reexamination, the BWCHA must recalculate the resident rent. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW
For those families who choose to pay income-based rent, the BWCHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the BWCHA must conduct a reexamination of family

composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the BWCHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point to determine the need for lease enforcement or eviction.

The BWCHA is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of the BWCHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains the BWCHA's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The BWCHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

> BWCHA Policy
> Generally, the BWCHA will schedule annual reexaminations to coincide with the family's anniversary date. The BWCHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.
>
> *Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).
>
> If the family transfers to a new unit, the BWCHA will perform a new annual reexamination, and the anniversary date will be changed.
>
> The BWCHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The BWCHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the BWCHA.

> BWCHA Policy
> Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the BWCHA to request a reasonable accommodation.

Notification of annual reexamination will be sent by first-class mail and will inform the family of the information and documentation that is necessary and the deadline for submission. It will also give the family the option of selecting either the flat rent or income based method.

The notification will also inform families who may need to make alternate arrangements due to a disability that they may contact staff to request a reasonable accommodation of their needs.

If the family is unable to submit the necessary documentation, the family should contact BWCHA in advance of the deadline. In all circumstances, if a family does not submit the necessary documentation, BWCHA will send a second notification. If a family fails to comply, the family will be in violation of their lease and may be terminated.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

BWCHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a BWCHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 14 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers

- A person's disability status
- Citizenship or immigration status
- Change in unit size

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The BWCHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

BWCHA Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Should BWCHA learn of possible criminal activity by a household member, the household member will be required to execute a consent form for a criminal background check as part of the annual recertification process and a criminal background check will be conducted.

Compliance with Community Service

For families who include nonexempt individuals, the BWCHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the BWCHA's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the BWCHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

BWCHA Policy

In general, an *increase* in the resident rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the BWCHA chooses to schedule an annual reexamination for completion prior

to the family's anniversary date for administrative purposes, the effective date will be determined by the BWCHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the resident rent that results from an annual reexamination will take effect on the family's anniversary date.

If the BWCHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the BWCHA.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the BWCHA by the date specified, and this delay prevents the BWCHA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that the BWCHA offer all families the choice of paying income-based rent or flat rent at least annually. The BWCHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the BWCHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The BWCHA is only required to provide the amount of income-based rent the family might pay in those years that the BWCHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, on an annual basis, the BWCHA must also review community service compliance and should have each adult resident consent to a criminal background check.

This part contains the BWCHA's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

BWCHA Policy
For families paying flat rents, the BWCHA will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

BWCHA Policy
In conducting full reexaminations for families paying flat rents, the BWCHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the BWCHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the BWCHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The BWCHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

BWCHA Policy
For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the BWCHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

BWCHA Policy
Generally, the family will not be required to attend an interview for an annual update. However, if the BWCHA determines that an interview is warranted, the family may be required to attend.
Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the BWCHA. The

family will have 14 calendar days to submit the required information to the BWCHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The BWCHA will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, the BWCHA will send a second written notice to the family. The family will have 14 calendar days from the date of the second notice to provide the missing information or documentation to the BWCHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The BWCHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

BWCHA Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, the BWCHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the BWCHA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and BWCHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the BWCHA must process interim reexaminations to reflect those changes. HUD regulations also permit the BWCHA to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The BWCHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and BWCHA policies describing what changes families are required to report, what changes families may choose to report, and how the BWCHA will process both BWCHA- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The BWCHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the BWCHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

> BWCHA Policy
> All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).
>
> The BWCHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require BWCHA approval. However, the family is required to promptly notify the BWCHA of the addition [24 CFR 966.4(a)(1)(v)].

> BWCHA Policy
> The family must inform the BWCHA of the birth, adoption, or court-awarded custody of a child within 14 calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request BWCHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The BWCHA may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which BWCHA consent will be given or denied. Under such policies, the factors considered by the BWCHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The BWCHA's obligation to make reasonable accommodation for handicapped persons.

BWCHA Policy

Families must request BWCHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the BWCHA prior to the individual moving into the unit.

The BWCHA will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit (under the transfer policy in Chapter 12), unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the BWCHA. Exceptions will be made on a case-by-case basis.

The BWCHA will not approve the addition of a new family or household member unless the individual meets the BWCHA's eligibility criteria (see Chapter 3).

If the BWCHA determines that an individual does not meet the BWCHA's eligibility criteria as defined in Chapter 3, the BWCHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The BWCHA will make its determination within 14 calendar days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

BWCHA Policy

If a family member ceases to reside in the unit, the family must inform the BWCHA within 14 calendar days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the BWCHA within 14 calendar days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the BWCHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the BWCHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

BWCHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

BWCHA-initiated Interim Reexaminations

BWCHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the BWCHA. They are not scheduled because of changes reported by the family.

BWCHA Policy

The BWCHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the BWCHA will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second 12 month exclusion period (50 percent Phase-in period).
- If the family has reported zero income, the BWCHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the BWCHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, resident-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the BWCHA will conduct an interim reexamination.

The BWCHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a resident fraud complaint.

Family-Initiated Interim Reexaminations

The BWCHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations

require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

HUD regulations give the BWCHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

> BWCHA Policy
>
> Families are required to report all increases in earned income, including new employment, within 14 calendar days of the date the change takes effect.
>
> The BWCHA will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's rent will change as a result of the increase. In all other cases, the BWCHA will note the information in the resident file, but will not conduct an interim reexamination.
>
> BWCHA will also conduct an interim if the family previously reported no income or had a temporary decrease in income.
>
> In all other cases, BWCHA will conduct an interim recertification if the family reports an increase of income greater than $200 per month. If the family reports an increase of income less than $200 per month, BHA will note the information in the tenant file, but will not conduct an interim recertification.
>
> Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The BWCHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

> BWCHA Policy
>
> If a family reports a change that it was not required to report and that would result in an increase in the resident rent, the BWCHA will note the information in the resident file, but will not conduct an interim reexamination.
>
> If a family reports a change that it was not required to report and that would result in a decrease in the resident rent, the BWCHA will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

BWCHA Policy
The family must notify the BWCHA of changes in writing. If the family provides oral notice, the BWCHA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the BWCHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the BWCHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 14 calendar days of receiving a request from the BWCHA. This time frame may be extended for good cause with BWCHA approval. The BWCHA will accept required documentation by mail, by fax, or in person.

Effective Dates

The BWCHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

BWCHA Policy
If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING RESIDENT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the BWCHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The resident rent calculations must reflect any changes in the BWCHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

> BWCHA Policy
> Unless the BWCHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW RESIDENT RENT

The public housing lease requires the BWCHA to give the resident written notice stating any change in the amount of resident rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the BWCHA redetermines the amount of rent (Total Resident Payment or Resident Rent) payable by the resident, not including determination of the BWCHA's schedule of Utility Allowances for families in the BWCHA's Public Housing Program, or determines that the resident must transfer to another unit based on family composition, the BWCHA must notify the resident that the resident may ask for an explanation stating the specific grounds of the BWCHA determination, and that if the resident does not agree with the determination, the resident shall have the right to request a hearing under the BWCHA's grievance procedure [24 CFR 966.4(c)(4)].

> BWCHA Policy
> The notice to the family will include the annual and adjusted income amounts that were used to calculate the resident rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the BWCHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the BWCHA may discover errors made by the BWCHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the BWCHA's policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the BWCHA to provide a decent, safe, and sanitary living environment for all residents, and to protect and preserve the physical condition of the property, as well as the financial interest of the BWCHA.

Nothing in this policy or the dwelling lease limits or impairs the right of persons with disabilities to own animals that are used to assist them.

The chapter is organized as follows:

> Part I: Assistance Animals. This part explains the difference between assistance animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.
>
> Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.
>
> Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.
>
> Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: ASSISTANCE ANIMALS [Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance

- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to the BWCHA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occ GB, p. 179].

A BWCHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

BWCHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

PHAs have the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

<u>BWCHA Policy</u>

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and the BWCHA approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority BWCHA may have to regulate assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

<u>BWCHA Policy</u>

Residents must care for assistance animals in a manner that complies with state and local

laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, the BWCHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the BWCHA determines that no such accommodation can be made, the BWCHA may withdraw the approval of a particular assistance animal.

PART II: PET POLICIES FOR ALL DEVELOPMENTS [24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

BWCHA may require registration of the pet with the BWCHA [24 CFR 960.707(b)(5)].

BWCHA Policy
A Resident who desires to own a pet shall register the pet at BWCHA's on-site management office in the development where they reside.

Registration for each animal shall be accomplished by the filing of the following disclosures and forms:

- Name of the adult household member who will be primarily responsible for animal care.
- Detailed description of the pet.
- Color photograph of the pet.
- A health certificate prepared by a veterinarian, including the following information:
    - attestations of no communicable disease;
    - spaying or neutering;
    - medical condition precluding spaying or neutering;

- current rabies and distemper vaccinations for species subject to State or local rabies vaccination requirements;

- name, address and telephone number of veterinarian who will be providing regular care to the pet;

- a copy of the license issued by the appropriate governing body for ownership of the animal for whom licensing is a legal requirement;

The pet owner must provide additional information necessary to ensure compliance with any policies prescribed herein. The pet owner shall be required to sign a statement indicating that he or she has read and received a copy of the Pet Policy and agrees to comply with all provisions contained in it.

Each pet owner shall identify two (2) alternate custodians or responsible parties for his or her pet. The custodians must be willing and able to assume responsibility for the care and keeping of the pet, including (if necessary) the removal of the pet from BWCHA property. If the pet owner becomes ill or is absent from the dwelling unit and unable to care for his or her pet, the alternate custodians shall assume responsibility. Custodian information shall include the name, address and phone number. This information shall be updated as often as necessary to ensure BWCHA has current information at all times.

Upon receipt and validation of the above disclosures, fees and deposits, BWCHA will issue the pet owner an identification tag. The identification tag must be conspicuously displayed, at all times:

GARDEN TYPE APARTMENTS - in the top left-hand side of the front room window.

HIGH-RISE APARTMENTS - directly above the door lock on the apartment door leading to the common hallway.

Resident shall not harbor or keep a pet on BWCHA property before obtaining authorization and an identification tag from an agent of BWCHA.

The pet owner shall re-certify the pet's registration at least annually. Re-certification of pet registration shall require the same disclosures as the initial pet registration described above.

BWCHA shall revoke a pet's registration, or refuse to register a pet, if the pet owner fails to provide required pet registration information, or fails to update the required information at least annually or when requested by an agent of BWCHA or its designee.

All dogs and cats must wear a tag bearing the resident's name, phone number, and the date of the latest rabies inoculation.

Refusal to Register Pets

BWCHA Policy

The BWCHA will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

The BWCHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the BWCHA refuses to register a pet, a written notification will be sent to the pet owner within 14 calendar days of the BWCHA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the BWCHA's grievance procedures.

Pet Agreement

BWCHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with the BWCHA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of the BWCHA's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the BWCHA's pet policy and applicable house rules may result in the withdrawal of BWCHA approval of the pet or termination of tenancy.

HOLD HARMLESS, DEFEND & INDEMNIFY

BWCHA Policy

The Resident agrees that it will protect, save, defend, hold harmless and indemnify BWCHA, its officers employees and agents from any and all demands, claims, judgments, or liability for loss or damage arising as a result of accidents, injuries, or other occurrences, occasioned by either the negligent or willful conduct of the Resident, its pet, or any person or pet on the property or within the unit leased, regardless of who the injured party may be.

End of Pet Ownership

BWCHA Policy

When a resident ceases to own or keep a pet, they shall notify BWCHA within fourteen (14) days. Upon notification, a BWCHA representative shall schedule and perform an inspection of the apartment and subsequent surrounding areas for damages directly related to the presence of the pet. The cost of damages, if any, shall be deducted from the security deposit. BWCHA will then refund the unused portion of the pet deposit to the resident within a reasonable time period.

Resident responsible for damage upon vacation of premises

BWCHA Policy

When a resident vacates BWCHA property, a BWCHA representative shall perform an inspection of the apartment and subsequent surrounding areas for damages directly related to the presence of the pet. The cost of damages, if any, shall be deducted from the security deposit. BWCHA will then refund the unused portion of the pet deposit to the former resident within a reasonable time period.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

BWCHA may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the BWCHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

BWCHA's may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize BWCHA to define the term [24 CFR 5.306(2)].

BWCHA Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

Allowable pets are limited to the following:

- Dog less than 20 pounds
- Cat
- Small domestic birds no larger than 6 inches tall
- Fish (reasonable number commensurate to aquarium size)

The following animals are not considered common household pets:

- Reptiles
- Psittacine birds (example, parrots)
- Wild animals or feral animals
- Non-human primates
- Ferrets
- Livestock
- Pot-bellied pigs
- Mice, Rats or other rodents
- Hedgehogs
- Gerbils
- Pigeons
- Hamsters
- Doves
- Arachnids
- Guinea pigs
- Mynah birds
- Animals used for commercial breeding
- Any other animals whose protective instincts and instincts and natural body armor pose a risk to human beings or other animals.

Pet Restrictions

BWCHA Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 20 pounds

Dogs of the pit bull, rottweiler, chow, boxer, akita, shar pei, german shepherd or Doberman pinscher breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

Number of Pets

BWCHA Policy

Each Head of Household may own up to one (1) total pet. Each bird or other animal, other than fish, shall be counted as one pet.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

HEALTH & SAFETY

BWCHA Policy

The pet owner shall take precautions and any measures necessary to eliminate offensive pet odors within and around the dwelling unit, and shall maintain the dwelling unit in a sanitary condition at all times, as determined by BWCHA.

No pet owner shall permit his or her pet to void urine or excrement in any neighboring yards or common public areas.

Pet bedding shall not be washed in any common laundry facilities.

A pet owner shall not keep or harbor any pet so as to create offensive odors, excessive noise, or unsanitary conditions, which demonstrate a menace to the health, comfort, or safety of other persons or animals. If a pet shall cause harm to any person, the pet's owner shall be required to permanently remove the pet from BWCHA's property within 24 hours of written notice from BWCHA. The pet owner may also be subject to termination of his/her dwelling lease.

The pet owner shall remove or restrain a pet when a BWCHA representative, or a designee, is present in or around their apartment. Examples can include, but are not limited to, repair technicians, inspectors, exterminators, etc.

At no time may a pet prohibit BWCHA representatives or designees from gaining access to BWCHA property (see *also,* § *VII. Pet Removal).*

BWCHA reserves the right to seek impoundment and sheltering of any animal, if the pet's conduct or condition is duly determined to constitute a nuisance or a threat to the health or safety of other persons or animals. The provisions of State or local health and anticruelty laws and ordinances will be observed in making this determination. If a pet shall cause harm to any person, the pet's owner shall be required to permanently remove the pet from BWCHA's property within 24 hours of written notice from BWCHA at the pet owner's expense. The pet owner may also be subject to termination of his/her dwelling lease.

To accommodate residents who have medically certified allergic or phobic reactions to dogs, cats, or other pets, those pets may be barred from certain areas in BWCHA development(s)/building(s). This shall be implemented based on demand for this service.

Other Requirements

BWCHA Policy

The Housing Authority reserves the right to refuse any pets that are considered to be inappropriate to live in public housing excluding service and companion animals.

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

Resident must provide waterproof and leak-proof litter boxes for cat waste, which must be kept inside the dwelling unit. Cardboard boxes are not acceptable and will not be approved. The Resident shall not permit refuse from litter boxes to accumulate nor to become unsightly or unsanitary.

Also, the weight of a cat cannot exceed 10 pounds (fully grown), and a dog may not exceed 20 pounds in weight (fully grown). All other four-legged animals are limited to 10 pounds (fully grown).

Note: Any pet that exceeds the weight limit at any time during occupancy will not be an eligible pet and must be removed from BWCHA property.

If the pet is a bird, it shall be housed in a birdcage and cannot be let out of the cage at any time.

If the pet is a fish, the aquarium must be 20 gallons or less, and the container must be placed in a safe location in the unit. The Resident is limited to one container for the fish and a reasonable number of fish commensurate to the aquarium size. The container must be maintained in a safe and non-hazardous manner.

All pets must be housed within the unit and no facilities can be constructed outside of the unit. No animal shall be permitted to be loose, and if the pet is taken outside, it must be taken outside on a leash and kept off other Resident's lawns. Also, all pets must wear collars with identification at all times. Pets without a collar will be picked-up immediately and transported to the Humane Society or other appropriate facility.

All authorized pet(s) must be under the control of an adult. An unleashed pet, or one tied to a fixed object, is not considered to be under the control of an adult. Pets which are unleashed, or leashed and unattended, on BWCHA property may be impounded and taken to the local Humane Society or other appropriate facility. It shall be the responsibility of the Resident to reclaim the pet at the expense of the Resident. Also, if a member of the Housing Authority staff has to take a pet to the Humane Society or other appropriate facility, the Resident will be charged $50 to cover the expense of taking the pet(s) to the Humane Society.

Residents must have the prior written approval of BWCHA BEFORE MOVING A PET INTO THEIR UNIT. Residents must request approval on the Authorization for Pet Ownership Form that must be fully completed before BWCHA will approve the request. Residents must give BWCHA a picture of the pet so it can be identified if it is running loose.

If a Resident harbors a pet without approval of BWCHA, or without registration, their pet ownership privileges shall be suspended for a period of one (1) year. A repeat violation will result in lifetime suspension of pet ownership privileges.

No Resident shall keep, raise, train, breed, or maintain any pet of any kind at any location, either inside or outside a dwelling unit, for commercial purposes or for fighting.

All residents are prohibited from feeding, housing or caring for stray animals. Such action shall constitute having a pet without permission of BWCHA.

Pets not owned by a current BWCHA Resident, or properly registered and authorized by BWCHA, are NOT permitted on the premises on a temporary or visiting basis. Trained service animals that are used to assist persons with disabilities are excluded from this provision.

No pet owner shall keep a pet in violation of State or local health and/or anti-cruelty laws or ordinances. Any failure of the Pet Ownership Policy to define the applicable laws or ordinances does not relieve the pet owner of the responsibility for complying with this requirement.

In order to safeguard the health and welfare of Residents, employees and the public, no pet owner shall keep a vicious, dangerous, or intimidating pet on the premises. If the pet owner declines, delays, or refuses to remove such a pet from the premises, BWCHA will effect its removal. The owner will be responsible for any costs associated with the pet's removal and/or subsequent impoundment. The definition of a vicious or dangerous animal is:
"Any animal that constitutes a physical threat to human beings, other animals or livestock; any animal which has a disposition or propensity to cause injury or behave in a manner which could reasonably cause injury to human beings, other animals or livestock, regardless of whether or not such behavior is hostile; any animal which has, without provocation, bitten, attacked or inflicted injury on any human being, other animal or

livestock; any animal which has been used in the commission of a crime."

Service animals that are specifically trained to assist persons with disabilities are excluded from the breed, size, weight, and type requirements. They are; however, required to assure proper licensing, inoculations, leash restraints, etceteras.

Dogs and cats shall be licensed as required by State and local laws or ordinances. Pet licenses must always be current. Dogs and cats must wear a collar with the license tag affixed at all times.

If the pet is a cat or dog, it must have received rabies and distemper inoculations or boosters, as applicable. Evidence of inoculations can be provided by a veterinarian or staff of the Humane Society, and must be provided before the execution of this agreement.

BWCHA reserves the right to require the removal of any pet from the premises, when the animal's conduct or condition is duly determined to constitute a nuisance or a threat to the health or safety of other persons, or animals. If a pet cause's harm to any person, the pet's owner shall be required to permanently remove the pet from BWCHA's property within 24 hours of written notice from BWCHA. The pet owner may also be subject to termination of his/her dwelling lease.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with BWCHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

BWCHA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms, and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

BWCHA may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning residents.

BWCHA may direct initial resident moves as may be necessary to establish pet and no-pet areas. The BWCHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The BWCHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing residents.

BWCHA may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

BWCHA Policy

With the exception of common areas as described in the previous policy, the BWCHA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the BWCHA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning residents.

Cleanliness

BWCHA Policy

The owner of a cat must provide a box with kitty litter, inside the dwelling unit, which must be accessible to the cat, at all times. The pet owner shall not permit waste in the litter box to accumulate or to become offensive, unsanitary, or unsightly. The litter must be cleaned of waste at least every two (2) days, and totally replaced at least once each week. The pet owner shall dispose of such waste and litter by placing it in a tightly sealed repository and depositing it in the appropriate trash receptacle (trash can or dumpster) outside the apartment where the pet owner resides.

The owner of a dog shall not permit their pet to void urine or excrement in any neighboring yards or common public areas.

The owner of a dog shall not permit dog waste to accumulate or to become offensive, unsanitary, or unsightly in the yard assigned to the owner's apartment. Waste shall be removed immediately. The waste must be disposed of by placing it in a tightly sealed repository and depositing it in an appropriate trash receptacle outside the apartment where the pet owner resides.

Pet waste shall not be flushed down toilets, sinks, or tubs.

Alterations to Unit

BWCHA Policy

Pet owners shall not alter their unit, patio, premises, or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

BWCHA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or

premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

BWCHA Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise, and medical attention for his/her pet. Including feeding their pet at least once per day, or in accordance with reasonable standards and proper care of a specific type of pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage BWCHA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

The pet owner shall house the pet inside of their dwelling unit.

A pet owner shall implement effective flea control by measures that produce no toxic hazard to the pet or other that may come into contact with treated animals.

A pet owner shall ensure suitable sanitation of the animal's living or sleeping quarters at all times.

Dogs, cats, and birds shall have access to an adequate supply of fresh water at all times.

A representative of BWCHA, or the local police, or their designee may, at any time, inspect any animal and the premises where the animal is kept.

A representative of BWCHA and/or the local police, or their designee, may enter a dwelling unit when there is evidence that an animal, left alone, is in danger or distress, or had been left untended for 10 hours or more. If there are unfavorable conditions present, the pet may be impounded, subject to any provisions of State or local health and/or anti-cruelty laws or ordinances in this regard. BWCHA shall accept no responsibility for the pet under such circumstances.

Responsible Parties

BWCHA Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the BWCHA and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

BWCHA Policy

Pets that are not owned by a resident are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by the BWCHA.

Pet Rule Violations

BWCHA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the pet owner has 14 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation
- That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting
- That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy
- If a pet shall cause harm to any person, the pet’s owner shall be required to permanently remove the pet from BWCHA property within 24 hours of written notice from BWCHA. The pet owner may also be subject to termination of his/her dwelling lease.

Notice for Pet Removal

BWCHA Policy

If the pet owner and the BWCHA are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the BWCHA, the BWCHA may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for the BWCHA's determination of the pet rule that has been violated
- The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

BWCHA Policy
IMMEDIATE

An animal is subject to **IMMEDIATE** removal from the premises when BWCHA determines, on the basis of objective facts, one or more of the following conditions exist:

- A pet prohibits BWCHA representatives or designees from gaining access to BWCHA property.

- A pet displays vicious, dangerous, or intimidating behavior, displays symptoms of an illness, or demonstrates behavior that constitutes an immediate threat to the health or safety of others. The definition of a vicious or dangerous animal is:
  - any animal that constitutes a physical threat to human beings, other animals;
  - any animal that has a disposition or propensity to cause injury or behaves in a manner that may possibly cause injury;
  - any animal that has, without provocation, bitten, attacked or inflicted injury on any human being or other animal;
  - any animal that has been used in the commission of a crime.

There is evidence that an animal left alone, is in danger or distress or has been left untended for 10 hours or more.

The said pet shall be prohibited from returning to BWCHA property pending resolution of any dispute regarding said violation.

If BWCHA must effectuate the removal of any animal, the pet owner shall forfeit the full amount of his/her pet deposit as well as their pet ownership privileges.

URGENT

An animal is subject to removal from the premises if BWCHA determines, on the basis of objective facts, the following conditions exist:

- The local authority empowered to do so revoke a dog or cat license.

- A pet repeatedly disturbs, interferes, or diminishes the peaceful enjoyment of the surroundings of the community in which the pet resides. The terms disturb, interfere or diminish shall include, but are not limited to barking, howling, biting, scratching, chirping and other activities of a disturbing nature.

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the BWCHA after reasonable efforts cannot contact the responsible party, the BWCHA may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

BWCHA Policy

The BWCHA may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

BWCHA Policy

The BWCHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the BWCHA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

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

10-III.A. OVERVIEW

This part describes the BWCHA's policies for pet deposits and fees in elderly, disabled, and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

The BWCHA may require residents who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on residents of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a BWCHA on a per dwelling unit basis, is the higher of the total resident payment (TTP) or such reasonable fixed amount as the

BWCHA may require. The BWCHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

BWCHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. Deposits are as follows:

- Dogs - $250.00
- Cats - $150.00
- Caged Pets - $150.00
- Fish in an Aquarium - $100.00
- Fish in a bowl - $25.00

The amount of the deposit must be paid in full before the pet is brought on the premises.

Refund of Deposit [24 CFR 5.318(d)(1)]

The BWCHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the resident's dwelling unit. The BWCHA must refund the unused portion of the pet deposit to the resident within a reasonable time after the resident moves from the project or no longer owns or keeps a pet in the unit.

BWCHA Policy

The BWCHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The BWCHA will provide the resident with a written list of any charges against the pet deposit within 14 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the BWCHA will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

BWCHA Policy

All reasonable expenses incurred by the BWCHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the BWCHA's ability to impose charges for house pet rule violations. However, charges for violation of BWCHA pet rules may be treated like charges for other violations of the lease and BWCHA tenancy rules.

BWCHA Policy

BWCHA does not charge a separate pet waste removal charge.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the BWCHA may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes the BWCHA's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

A BWCHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A BWCHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The BWCHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

BWCHA Policy

Pet owners are required to pay a pet deposit of :

- Dogs - $250.00
- Cats - $150.00

- Caged Pets - $150.00
- Fish in an Aquarium - $100.00
- Fish in a bowl - $25.00

The deposit must be paid in full before the pet is brought on the premises.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

BWCHA Policy

The BWCHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The BWCHA will provide the resident with a written list of any charges against the pet deposit within 14 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the BWCHA will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

BWCHA may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

BWCHA Policy

The BWCHA does not require pet owners to pay a non-refundable nominal pet fee.

10-IV.D. OTHER CHARGES

Pet-Related Damages During Occupancy

BWCHA Policy

All reasonable expenses incurred by the BWCHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring BWCHA to implement a community service program for all non-exempt adults living in public housing.

This chapter describes HUD regulations and BWCHA policies related to these topics in two parts:

> Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.
>
> Part II: BWCHA Implementation of Community Service. This part provides BWCHA policy regarding BWCHA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). BWCHA and residents must comply with the community service requirement, effective with BWCHA fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the BWCHA Plan must contain a statement of the how the BWCHA will comply with the community service requirement, including any cooperative agreement that the BWCHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the BWCHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of the BWCHA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

> BWCHA Policy
>
> An individual may not skip a month and then double up the following month, unless authorized by BWCHA. The BWCHA will make the determination of whether to permit

a deviation from the schedule.

Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must notify the BWCHA in writing within 5 business days of the circumstances becoming known. The BWCHA will review the request and notify the individual, in writing, of its determination within 14 calendar days. The BWCHA may require those individuals to provide documentation to support their claim.

Definitions

Exempt Individual [24 CFR 960.601(b)]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

  BWCHA Policy

  The BWCHA will consider 10 hours per week as the minimum number of hours needed to qualify for a work activity exemption.
- Meets the requirements for being exempted from having to engage in a work activity under the state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the BWCHA is located, including a state-administered welfare-to-work program; or
- Is in a family receiving assistance under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the BWCHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

Community Service [PH Occ GB, p. 174]

Community service is volunteer work which includes, but is not limited to:

- Work at a local institution including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization that serves BWCHA residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, PAL, Garden Center, community clean-up programs, beautification programs, other youth or senior organizations
- Work at the BWCHA to help improve physical conditions

- Work at the BWCHA to help with children's programs
- Work at the BWCHA to help with senior programs
- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems, serving as an officer in a resident organization, serving on the resident advisory board
- Caring for the children of other residents so they may volunteer

NOTE: Political activity is excluded for purposes of eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b)]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: Any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

These economic self-sufficiency programs can include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeships (formal or informal), or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

Notification Requirements [24 CFR 960.605(c)(2)]

The BWCHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for BWCHA verification of exempt status. The BWCHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt.

BWCHA Policy

The BWCHA will provide the family with a copy of the Community Service Policy at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, the BWCHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The BWCHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

BWCHA Policy

Where the lease term does not coincide with the effective date of the annual reexamination, the BWCHA will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the BWCHA will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

BWCHA Policy

At least 60 days prior to lease renewal, the BWCHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the BWCHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the BWCHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

The BWCHA must review resident family compliance with service requirements annually at least thirty days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the BWCHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

BWCHA Policy

Approximately 60 days prior to the end of the lease term, the BWCHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 14 calendar days to submit the BWCHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or BWCHA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status Between Annual Determinations

BWCHA Policy

Exempt to Non-Exempt Status

If an exempt individual becomes non-exempt during the twelve month lease term, it is the family's responsibility to report this change to the BWCHA within 14 calendar days.

Within 14 calendar days of a family reporting such a change, or the BWCHA determining such a change is necessary, the BWCHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30 day notice.

Non-Exempt to Exempt Status

If a non-exempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the BWCHA within 14 calendar days. Any claim of exemption will be verified by the BWCHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 14 calendar days of a family reporting such a change, or the BWCHA determining such a change is necessary, the BWCHA will provide the family written notice that the family member is no longer subject to the community

service requirement, if the BWCHA is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4)]

The BWCHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

BWCHA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The BWCHA will provide a completed copy to the family and will keep a copy in the resident file.

The BWCHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The BWCHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the BWCHA's determination, s/he can dispute the decision through the BWCHA's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

If qualifying community service activities are administered by an organization other than the BWCHA, a family member who is required to fulfill a service requirement must provide certification to the BWCHA, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

BWCHA Policy

If anyone in the family is subject to the community service requirement, the BWCHA will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to the BWCHA, upon request by the BWCHA.

If the BWCHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the BWCHA has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Initial Noncompliance

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

If the resident or another family member has violated the community service requirement, the BWCHA may not renew the lease upon expiration of the twelve-month term of the lease, unless the resident and any other noncompliant family member enter into a written agreement with the BWCHA. Under this agreement the resident or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service requirement must be currently complying with the service requirement or must no longer be residing in the unit [24 CFR 960.607(c)].

Notice of Initial Noncompliance [24 CFR 960.607(b)]

If the BWCHA determines that there is a family member who is required to fulfill a service requirement, but who has failed to comply with this obligation (noncompliant resident), the BWCHA must notify the resident of this determination.

The notice to the resident must briefly describe the noncompliance. The notice must state that the BWCHA will not renew the lease at the end of the twelve-month lease term unless the resident, and any other noncompliant resident, enter into a written agreement with the BWCHA to cure the noncompliance, or the family provides written assurance satisfactory to the BWCHA that the resident or other noncompliant resident no longer resides in the unit.

The notice must also state that the resident may request a grievance hearing on the BWCHA's determination, in accordance with the BWCHA's grievance procedures, and that the resident may exercise any available judicial remedy to seek timely redress for the BWCHA's nonrenewal of the lease because of the BWCHA's determination.

> <u>BWCHA Policy</u>
>
> The notice of initial noncompliance will be sent at least 45 days prior to the end of the lease term.
>
> The family will have 14 calendar days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.
>
> If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the BWCHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 14 calendar day timeframe, the BWCHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance [24 CFR 960.607(b)]

If, after the 12 month cure period, the family member is still not compliant, the BWCHA must terminate tenancy of the entire family, according to the BWCHA's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

BWCHA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 14 calendar days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the BWCHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 14 calendar day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each BWCHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the BWCHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

BWCHA Implementation of Community Service

The BWCHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by BWCHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

BWCHA Policy

The BWCHA will notify its insurance company if residents will be performing community service at the BWCHA. In addition, the BWCHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, the BWCHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

BWCHA Program Design

The BWCHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

BWCHA Policy

The BWCHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

The BWCHA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. The BWCHA will work with resident organizations and community organizations to design, implement, assess, and recalibrate its community service program.

The BWCHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the BWCHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the BWCHA Plan.

The BWCHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – volunteer work which includes, but is not limited to:

- Work at a local institution, including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization such as: Parks and Recreation, United Way, Red Cross, Volunteers of America, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H Program, PAL, Garden Center, community clean-up programs, beautification programs, other counseling, aid, youth or senior organizations
- Work at the housing authority to help with litter control
- Work at the housing authority to help with children's programs
- Work at the housing authority to help with senior programs
- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems
- Serving as an officer in a resident organization
- Serving on the Resident Advisory Board
- Caring for children of other residents so they may volunteer

NOTE: Political activity is excluded.

Self-Sufficiency Activities – activities that include, but are not limited to:

- Job readiness programs
- Job training programs
- GED classes
- Substance abuse or mental health counseling
- English proficiency or literacy (reading) classes
- Apprenticeships
- Budgeting and credit counseling
- Any kind of class that helps a person toward economic independence

- Student status at any school, college or vocation school

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individuals
- Is working at least 30 hours per week
- Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program including a State-administered welfare-to-work program
- Is a member of a family receiving assistance, benefits or services under TANF or any other State welfare program and has not been found to be in noncompliance with such program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month. An individual may not skip a month and then double up the following month, unless special circumstances warrant special consideration. The housing authority will make the determination of whether to allow or disallow a deviation from the schedule based on a family's written request.
3. Family obligation:
   - At lease execution, all adult members (18 or older) of a public housing resident family must:
     - Sign a certification that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
     - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
   - Upon written notice from the BWCHA, non-exempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
   - If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, as a condition of continued occupancy.
4. Change in exempt status:
   - If, during the twelve (12) month lease period, a non-exempt person becomes exempt,

it is his or her responsibility to report this to the BWCHA and provide documentation of exempt status.

- If, during the twelve (12) month lease period, an exempt person becomes non-exempt, it is his or her responsibility to report this to the BWCHA. Upon receipt of this information the BWCHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the BWCHA will:
   - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
   - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. The BWCHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
3. Although exempt family members will be required to submit documentation to support their exemption, the BWCHA will verify the exemption status in accordance with its verification policies. The BWCHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the BWCHA's grievance procedure if they disagree with the BWCHA's determination.
4. Noncompliance of family member:
   - At least thirty(30) days prior to the end of the 12-month lease term, the BWCHA will begin reviewing the exempt or non-exempt status and compliance of family members;
   - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the BWCHA finds the family member to be noncompliant, the BWCHA will not renew the lease unless:
     - The head of household and any other noncompliant resident enter into a written agreement with the BWCHA, to make up the deficient hours over the next twelve (12) month period; or
     - The family provides written documentation satisfactory to the BWCHA that the noncompliant family member no longer resides in the unit.
   - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the BWCHA that the noncompliant family member no longer resides in the unit;
   - The family may use the BWCHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident	Date
Resident	Date
Resident	Date
Resident	Date

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

> (A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and
>
> (B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or
>
> (ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.
>
> (2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.
>
> (3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

EXHIBIT 11-3: BWCHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the BWCHA's community service requirement for the following reason:

❒ 62 years of age or older. *(Documentation of age in file)*

❒ Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement. (*Documentation of HUD definition of disability in file)*

Resident certification: I am a person with disabilities and am unable to comply with the community service requirement.

_____ _____

Signature of Family Member Date

❒ Is the primary caretaker of such an individual in the above category. *(Documentation in file)*

❒ Is working at least 30 hours per week. *(Employment verification in file)*

❒ Is participating in a welfare-to-work program. (*Documentation in file).*

❒ Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program, including a State-administered welfare-to-work program (*Documentation in file*)

❒ Is a member of a family receiving assistance, benefits, or services under TANF or any other State welfare program and has not been found to be in noncompliance with such program. *(Documentation in file)*

_____ _____

Signature of Family Member Date

_____ _____

Signature of BWCHA Official Date

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the BWCHA's transfer policy, based on HUD regulations, HUD guidance, and BWCHA policy decisions.

This chapter describes HUD regulations and BWCHA policies related to transfers in four parts:

> Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.
>
> Part II: BWCHA Required Transfers. This part describes types of transfers that may be required by the BWCHA, notice requirements, and payment of transfer costs.
>
> Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.
>
> Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The BWCHA may require the resident to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the resident must be provided, that may or may not require a transfer.

The resident may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The BWCHA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the BWCHA.

In the case of a genuine emergency, it may be unlikely that the BWCHA will have the time or resources to immediately transfer a resident. Due to the immediate need to vacate the unit, placing the resident on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the BWCHA should find alternate accommodations for the resident until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is reached.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the BWCHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time

[24 CFR 966.4(h)].

BWCHA Policy

The following is considered an emergency circumstance warranting an immediate transfer of the resident or family:

> Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

Special Circumstance Transfers

> BWCHA will authorize transfers under special circumstances for a participant family if one of the following conditions occurs:
>
> The resident's unit is being modernized or significantly remodeled. In such cases, the family may only be offered temporary relocation and may be allowed to return to their unit once rehabilitation is complete.
>
> BWCHA has a need, at the discretion of the Executive Director to transfer the resident family to another unit and the resident voluntarily agrees to such transfer.

12-I.C. EMERGENCY TRANSFER PROCEDURES

BWCHA Policy

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the BWCHA will provide temporary accommodations to the resident by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the BWCHA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the resident.

12-I.D. COSTS OF TRANSFER

BWCHA Policy

The resident, except when the transfer is due to inhabitability, through no fault of the resident, or the need of BWCHA, will pay all moving costs related to the transfer.

PART II: BWCHA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the BWCHA to develop reasonable transfer policies.

The BWCHA may require that a resident transfer to another unit under some circumstances. For example, the BWCHA may require a resident to transfer to make an accessible unit available to a

disabled family. The BWCHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a BWCHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the BWCHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF BWCHA REQUIRED TRANSFERS

BWCHA Policy

The types of transfers that may be required by the BWCHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the BWCHA are mandatory for the resident.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the BWCHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

BWCHA Policy

When a non-accessible unit becomes available, the BWCHA 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 BWCHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

The BWCHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to BWCHA policy [24 CFR 960.257(a)(4)]. On some occasions, the BWCHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the resident's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

BWCHA Policy

The BWCHA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the BWCHA's occupancy standards as described in Section 5-

I.B.

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

The BWCHA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the BWCHA that a transfer is necessary and that the family has been placed on the transfer list.

If an appropriate unit is not available, the resident will be placed on a transfer list and moved to such unit when it does become available.

BWCHA will place all families requiring a mandatory transfer due to occupancy standards on a transfer list, which will be reviewed for need-based transfers before any unit is offered to a family on the waiting list.

If a family that is required to move refuses the offered unit, BWCHA will evaluate the reason for the refusal and determine if it is one of good cause. If BWCHA determines that there is no good cause, BWCHA will begin lease termination proceedings.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit the BWCHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

BWCHA Policy

The BWCHA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The BWCHA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A BWCHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the BWCHA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

BWCHA Policy

The BWCHA will bear the reasonable costs of transfers that the BWCHA requires, except that residents will be required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

The BWCHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the BWCHA will collect information from companies in the community that provide these services.

The BWCHA will reimburse the family for eligible out-of-pocket moving expenses up to the BWCHA's established moving allowance.

PART III: TRANSFERS REQUESTED BY RESIDENTS

12-III.A. OVERVIEW

HUD provides the BWCHA with discretion to consider transfer requests from residents. The only requests that the BWCHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the BWCHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the BWCHA.

Some transfers that are requested by residents should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

BWCHA Policy

The types of requests for transfers that the BWCHA will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the BWCHA's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the BWCHA.

The BWCHA will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the BWCHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with

accessible features

The BWCHA will consider the following as regular priority transfer requests:

When a family requests a larger bedroom size unit even though the family does not meet the BWCHA's definition of overcrowded, as long as the family meets the BWCHA's occupancy standards for the requested size unit

When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation, and public transportation is not adequate

Transfers requested by the resident are considered optional for the resident.

BWCHA will allow 10 total tenant requested transfers per year and not more than 1 transfer in any given month and no more than 5 in any 6 month period.

If there is a participant family waiting for transfer to an available and appropriately sized unit, the participant family will be offered the next available unit matching the family's needs as provided by the resident in the request for transfer. Rejection of the unit offer based on reasons other than not meeting the families need as provided by the resident on the request for transfer may result in the transfer being denied by BWCHA.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the BWCHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

BWCHA Policy

Except where reasonable accommodation is being requested, the BWCHA will only consider transfer requests from residents that meet the following requirements:

Have not engaged in criminal activity that threatens the health and safety or residents and staff

Owe no back rent or other charges, or have a pattern of late payment

Have no housekeeping lease violations or history of damaging property

Can get utilities turned on in the name of the head of household (applicable only to properties with resident-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the BWCHA's advantage to make the transfer.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

Residents requesting to be transferred to a larger bedroom size, will be considered for a

larger bedroom size unit under the same properties waitlist in which they are currently housed.

12-III.D. SECURITY DEPOSITS

BWCHA Policy

The family will be required to pay a new deposit upon acceptance of a unit.

BWCHA will require a new security deposit of all families.

The family or person will pay a security deposit of $375.00 for a family unit and $225.00 for an elderly unit.

In exceptional situations BWCHA reserves the right to allow a new resident to pay their security deposit in up to three (3) payments: one-third paid in advance, one-third paid with their second month's rent, and one-third month's rent payment. This shall be at the sole discretion of BWCHA and on a case-by-case basis.

12-III.E. COST OF TRANSFER

The BWCHA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2006-13].

BWCHA Policy

The resident will bear all of the costs of transfer s/he requests. However, the BWCHA will bear the transfer costs when the transfer is done as a reasonable accommodation.

The resident will be billed for any charges that occur as a result of the resident moving out of the apartment.

12-III.F. HANDLING OF REQUESTS

BWCHA Policy

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

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

The BWCHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family.

If the family does not meet the "good record" requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

The BWCHA will respond within fourteen (14) calendar days of the submission of the family's request. If the BWCHA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

BWCHA Policy

The BWCHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

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

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other BWCHA-required transfers
7. Other resident-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, the BWCHA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow the BWCHA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

BWCHA Policy

Residents will receive one offer of a transfer.

When the transfer is required by the BWCHA, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

BWCHA Policy

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

> Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
>
> The family demonstrates to the BWCHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
>
> A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
>
> The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
>
> The unit has lead-based paint and the family includes children under the age of six.

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

12-IV.E. DECONCENTRATION

BWCHA Policy

If subject to deconcentration requirements, the BWCHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the BWCHA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

BWCHA Policy

The reexamination date will be changed to the first of the month in which the transfer took place.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party in a lease agreement may terminate the lease under certain circumstances. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. The BWCHA may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which a BWCHA can terminate a family's lease, and give BWCHA authority to determine other reasons.

When determining BWCHA policy on terminations, state and local landlord-resident laws must be considered, since such laws could vary from one location to another. These variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern both the family's and BWCHA's termination of the lease. It is presented in four parts:

> Part I: Termination by Resident. This part discusses the family's voluntary termination of the lease and the requirements the BWCHA places upon families who wish to terminate their lease.
> Part II: Termination by BWCHA - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the BWCHA occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements.
> Part III: Termination by BWCHA – Other Authorized Reasons. This part describes the BWCHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes BWCHA to terminate. For some of these options HUD requires the BWCHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the BWCHA has full discretion whether to consider the options as just cause to terminate as long as the BWCHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-resident law. This part also discusses the alternatives that the BWCHA may consider in lieu of termination, and the criteria the BWCHA will use when deciding what actions to take.
> Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements, and BWCHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY RESIDENT

13-I.A. RESIDENT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the project office or the BWCHA central office or sent by pre-paid first-class mail, properly addressed.

> BWCHA Policy
>
> If a family desires to move and terminate their tenancy with the BWCHA, they must give at least 20 calendar days advance written notice to the BWCHA of their intent to vacate. When a family must give less than 20 days notice due to circumstances beyond their control the BWCHA, at its discretion, may waive the 20 day requirement.
>
> The notice of intent to vacate must be signed by the head of household, spouse, or cohead.

PART II: TERMINATION BY BWCHA – MANDATORY

13-II.A. OVERVIEW

HUD requires the BWCHA to terminate the lease in certain circumstances. In other circumstances HUD requires the BWCHA to establish provisions for lease termination, but it is still a BWCHA option to determine, on a case-by-case basis, whether termination is warranted. For those resident actions or failures to act where HUD requires termination, the BWCHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the BWCHA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The BWCHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The BWCHA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the BWCHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION [24 CFR 5.218(c) and 24 CFR 960.259(a)(3)]

The BWCHA must terminate the lease if a resident family fails to provide the documentation required for any family member who obtains a social security number, or joins the family. BWHCA may defer the termination and grant the tenant an additional 90 days to disclose the SSN if BWCHA determines that the nondisclosure is due to an unforeseen circumstance outside of the control of the tenant and there is reasonable likelihood the tenant can disclose the SSN by the end of the additional 90 days. See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE BWCHA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

The BWCHA must terminate the lease if the family fails to accept the BWCHA's offer of a lease revision to an existing lease, provided the BWCHA has done the following:

- The revision is on a form adopted by the BWCHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to residents and resident organizations and their opportunity to present comments.
- The BWCHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The BWCHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to BWCHA policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

The BWCHA must immediately terminate the lease if the BWCHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises.*

13-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

The BWCHA is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

PART III: TERMINATION BY BWCHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring BWCHA to terminate the lease under the circumstances described in Part II, HUD requires the BWCHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require BWCHA to terminate for such violations in all cases. The BWCHA has the discretion to consider circumstances surrounding the violation or, in applicable situations,

whether the offending household member has entered or completed rehabilitation, and the BWCHA may, as an alternative to termination, require the exclusion of the culpable household member. The BWCHA must make policy decisions concerning these options.

In addition, HUD authorizes BWCHA to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. The BWCHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the BWCHA lease. In the development of the terms of the lease, the BWCHA must consider the limitations imposed by state and local landlord-resident law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-resident law, and because HUD affords BWCHA wide discretion in some areas, a broad range of policies could be acceptable.

The BWCHA, with some restrictions, also has the option to terminate the tenancies of families who are over income.

The BWCHA may consider alternatives to termination and must establish policies describing the criteria the BWCHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the BWCHA must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require BWCHA to terminate for such violations in all cases, therefore BWCHA policies are needed.

Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

Covered person means a resident, any member of the resident's household, a guest, or another person under the resident's control.

Dating violence is defined in section 3-III.F.

Domestic violence is defined in section 3-III.F.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

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

Guest means a person temporarily staying in the unit with the consent of a resident or other member of the household who has express or implied authority to so consent on behalf of the resident.

Household means the family and BWCHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Immediate family member is defined in section 3-III.F.

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

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Stalking is defined in section 3-III.F.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the resident, member of the resident's household or guest, or any such activity engaged in on the premises by any other person under the resident's control is grounds for termination.

> BWCHA Policy
> The BWCHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any resident, member of the resident's household or guest, and any such activity engaged in on the premises by any other person under the resident's control.
>
> The BWCHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.
>
> In making its decision to terminate the lease, the BWCHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BWCHA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that a BWCHA may evict a family when the BWCHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

BWCHA Policy
The BWCHA will terminate the lease when the BWCHA determines that a household member is illegally using a drug or the BWCHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

The BWCHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

In making its decision to terminate the lease, the BWCHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BWCHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including BWCHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

BWCHA Policy
The BWCHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including BWCHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

The BWCHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

In making its decision to terminate the lease, the BWCHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BWCHA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]
BWCHA must establish standards that allow termination of tenancy if the BWCHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

BWCHA Policy

The BWCHA will terminate the lease if the BWCHA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

The BWCHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

In making its decision to terminate the lease, the BWCHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BWCHA may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

PHAs must establish standards that allow termination of tenancy if the BWCHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

BWCHA Policy

The BWCHA will terminate the lease if the BWCHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The BWCHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the BWCHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BWCHA may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain resident obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [Pub.L. 109-162].

BWCHA Policy

The BWCHA will terminate the lease for the following violations of resident obligations under the lease:

- Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);
- Repeated late payment of rent or other charges. Four late payments within a 12 month period shall constitute a repeated late payment.

- Failure to fulfill the following household obligations:

    - Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

    - Not to provide accommodations for boarders or lodgers

    - To use the dwelling unit solely as a private dwelling for the resident and the resident's household as identified in the lease, and not to use or permit its use for any other purpose

    - To abide by necessary and reasonable regulations promulgated by the BWCHA for the benefit and well-being of the housing project and the residents which shall be posted in the project office and incorporated by reference in the lease

    - To comply with all obligations imposed upon residents by applicable provisions of building and housing codes materially affecting health and safety

    - To keep the dwelling unit and such other areas as may be assigned to the resident for the resident's exclusive use in a clean and safe condition

    - To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

    - To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

    - To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

    - To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the

resident, a member of the household or a guest

- To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, the BWCHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BWCHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes BWCHA to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the BWCHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the BWCHA to only those examples. The Violence against Women Reauthorization Act of 2005 explicitly prohibits BWCHA from considering incidents of actual or threatened domestic violence, dating violence, or stalking as "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence.

BWCHA Policy

The BWCHA will terminate the lease for the following reasons.

- *Fugitive Felon or Parole Violator.* If a resident is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

- *Persons subject to sex offender registration requirement.* If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

- Discovery after admission of facts that made the resident ineligible

- Discovery of material false statements or fraud by the resident in connection with an application for assistance or with reexamination of income

- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the BWCHA to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size

- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the BWCHA that such a dwelling unit is available
- Failure to permit access to the unit by the BWCHA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

- Failure to promptly inform the BWCHA of the birth, adoption, or court-awarded custody of a child. In such a case, promptly means within 14 calendar days of the event.

- Failure to abide by the provisions of the BWCHA pet policy

- If the family has breached the terms of a repayment agreement entered into with the BWCHA

- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

- If a household member has engaged in or threatened violent or abusive behavior toward BWCHA personnel.

    - *Abusive or violent behavior towards BWCHA 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.

- Criminal Activity

    - A covered person engages in any criminal activity or any activity that would be a crime on or off the premises.

    - Any criminal activity or any activity that would be a crime occurs within a Resident's unit regardless of who conducted the criminal activity and the Resident or household members failed to take reasonable measures to prevent or control such activity.

    - Any criminal activity or any activity that would be considered a crime on or off the property regardless of who conducted such activity that the Resident was aware of and failed to take reasonable measures to control.

In making its decision to terminate the lease, the BWCHA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the BWCHA may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the BWCHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

BWCHA Policy

The family must supply any information or certification requested by the BWCHA to verify that the family is living in the unit, or relating to family absence from the unit, including any BWCHA-requested information or certification on the purposes of family absences. The family must cooperate with the BWCHA for this purpose.

The family must promptly notify the BWCHA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 14 calendar days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, the BWCHA will terminate the lease for other good cause.

Abandonment. If the family appears to have vacated the unit without giving proper notice, the BWCHA will follow state and local landlord-resident law pertaining to abandonment before taking possession of the unit. If necessary, the BWCHA will secure the unit immediately to prevent vandalism and other criminal activity.

BWCHA will consider a unit to be abandoned when a resident has both fallen behind in rent AND has clearly indicated by words or actions an intention not to continue living in the unit, or the family and/or Resident has been absent for 180 consecutive days in any circumstance for any reason, regardless of payment of rent, without prior written approval obtained from BWCHA Management. BWCHA will consider a unit to be abandoned when a resident has both been absent for a period of 30 consecutive days, without written pre-approval and/or without reasonable cause or excuse, and has failed to pay rent for the same time period. A family and/or Resident may be absent from a unit for brief period of time, no greater than 30 days without payment of rent. Absence shall mean that no member of the family or the Resident is residing in the unit. Verification of occupancy may include letters to the unit, phone calls, visits, or questions to the neighbors. Absences for vacations, hospitalization shall not be deemed abandonment, unless absence is in excess of 30 days. A family's abandonment of a unit shall not bar readmission or resumption of assistance to the family or Resident.

When a unit has been abandoned, BWCHA representative may enter the unit and remove any abandoned property. It will be stored in a reasonably secure place. A notice will be mailed to the resident stating where the property is being stored and when it will be sold. If the BWCHA does not have a new address for the resident, the notice will be mailed to the unit address so it can be forwarded by the post office. Disposition of the property left in the resident's unit shall occur in a manner consistent with this policy and applicable state law. To the extent that there may be a conflict between this policy and State law, the provisions of State law shall control.

Any money raised by the sale or disposition of the property goes to cover money owed by the family to BWCHA such as back rent and the cost of storing and selling the goods. If there is any money left over and the family's forwarding address is known, BWCHA will mail it to the family. If the family's address is not known, the BWCHA will keep it for the resident for one year. If it is not claimed within that time, it belongs to BWCHA.

Within 30 days of learning of abandonment, BWCHA will either return the deposit or provide a statement of why the deposit is being kept.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, HUD authorizes BWCHA to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the BWCHA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require BWCHA to evict over-income residents, but rather gives BWCHA the discretion to do so thereby making units available for applicants who are income-eligible.

BWCHA Policy

The BWCHA will not evict or terminate the tenancies of families solely because they are over income.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the BWCHA may consider exclusion of the culpable household member. Such an alternative can be used, by BWCHA policy, for any other reason where such a solution appears viable.

BWCHA Policy

The BWCHA will consider requiring the resident to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former

household member's current address upon BWCHA request.

Repayment of Family Debts

BWCHA Policy
If a family owes amounts to the BWCHA, as a condition of continued occupancy, the BWCHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the BWCHA of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A BWCHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the BWCHA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

BWCHA Policy
The BWCHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the BWCHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.
Such relevant circumstances can also be considered when terminating the lease for any other reason.

BWCHA Policy
The BWCHA will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents

- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, or stalking
- The effects that the eviction will have on other family members who were not involved in the action or failure to act
- The effect on the community of the termination, or of the BWCHA's failure to terminate the tenancy
- The effect of the BWCHA's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities
- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]
HUD authorizes BWCHA to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

BWCHA Policy
In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the BWCHA will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

For this purpose the BWCHA will require the resident to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation [24 CFR 966.7]
If the family includes a person with disabilities, the BWCHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

BWCHA Policy
If a family indicates that the behavior of a family member with a disability is the reason

for a proposed termination of lease, the BWCHA will determine whether the behavior is related to the disability. If so, upon the family's request, the BWCHA will determine whether alternative measures are appropriate as a reasonable accommodation. The BWCHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]
The BWCHA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162 and 109-271]

The Violence against Women Reauthorization Act of 2005 (VAWA), provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a resident's household or any guest or other person under the resident's control, shall not be cause for termination of the tenancy or occupancy rights, if the resident or immediate family member of the resident's family is the victim or threatened victim of that abuse."
VAWA further provides that incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

Definitions
For the definitions of *domestic violence*, *dating violence*, *stalking*, and *immediate family member*, see section 3-III.F.

VAWA and Other Laws [Pub.L. 109-162]
VAWA does not supersede any other federal, state, or local law that provides greater protection to victims of domestic violence, dating violence, or stalking.
Moreover, VAWA does not limit the BWCHA's duty to honor court orders issued to protect a victim or to address the distribution of property when a family breaks up.

Limits on VAWA Protections [Pub.L. 109-162]
While VAWA prohibits a BWCHA from using domestic violence, dating violence, or stalking as the cause for a termination or eviction action against a public housing resident who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a BWCHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, or stalking providing that the BWCHA does not subject the victim to a more demanding standard than other residents.
- VAWA does not limit a BWCHA's authority to terminate the tenancy of any public housing resident if the BWCHA can demonstrate an actual and imminent threat to other residents or

those employed at or providing service to the property if that resident's tenancy is not terminated.

BWCHA Policy
In determining whether a public housing resident who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other residents or those employed at or providing service to a property, the BWCHA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or resident other than the victim of domestic violence, dating violence, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within a short period of time

Whether the threat to other residents or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

If the resident wishes to contest the BWCHA's determination that he or she is an actual and imminent threat to other residents or employees, the resident may do so as part of the grievance hearing or in a court proceeding.

Victim Notification [Notice PIH 2006-42]
VAWA requires BWCHA to notify residents of their rights under VAWA and to inform them about the existence of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. (For general VAWA notification policies, see section 16-VII.) Notice PIH 2006-42 identifies two ways that a BWCHA may fulfill this requirement in the event of a termination or start of an eviction proceeding:

- It may enclose the form with the termination or eviction notice and direct the family to complete, sign, and return the form, if applicable, by a specified date.
- It may include language discussing the protections provided by VAWA in the termination or eviction notice and request that a resident come to the BWCHA office and pick up the form if the resident believes the VAWA protections apply.

Notice PIH 2006-42 points out that mailing the certification form in response to an incident could place the victim at risk, since the abuser may be monitoring the mail. In such cases, the notice recommends that BWCHA work with residents to make other delivery arrangements.

BWCHA Policy
The BWCHA will follow the lease termination notice policy in section 13-IV.D. If the BWCHA has reason to suspect that the notice might place a victim of domestic violence at risk, it will attempt to deliver the notice by hand directly to the victim. The BWCHA will use the same caution if it decides to deliver VAWA information to a victim at any other time following an incident of domestic violence.

Victim Documentation [Notice PIH 2006-42]

VAWA authorizes BWCHA responding to incidents of actual or threatened domestic violence, dating violence, or stalking to request in writing that a resident complete, sign, and submit a HUD-approved certification form (form HUD-50066).

In lieu of a certification form, or in addition to the certification form, a resident may provide one of the following:

- A federal, state, tribal, territorial, or local police or court record documenting the domestic violence, dating violence, or stalking
- Documentation signed by an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of such abuse, in which the professional attests under penalty of perjury to the professional's belief that the incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation

A BWCHA is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, or stalking in order to receive the protections of VAWA. A BWCHA may, at its discretion, provide assistance to an individual based solely upon the individual's statement or other corroborating evidence.

VAWA specifies that a victim of domestic violence, dating violence, or stalking must provide documentation of abuse within 14 business days after receipt of a written request for such documentation by a BWCHA. If the victim does not provide the documentation within that time frame, or any extension approved by the BWCHA, the victim forfeits the protections against termination afforded by VAWA, and the BWCHA is free to evict or terminate the assistance of the victim in accordance with otherwise applicable law and lease provisions.

<u>BWCHA Policy</u>
When a resident family is facing lease termination because of the actions of a resident, household member, guest, or other person under the resident's control and a resident or immediate family member of the resident's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the BWCHA will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the BWCHA will accept either of the following forms of documentation:

A police or court record documenting the actual or threatened abuse

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The BWCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the BWCHA's written request or must request an extension within that time frame. The BWCHA may, at its discretion, extend the deadline for 14 calendar days.

If the individual provides the requested documentation within 14 business days, or any BWCHA-approved extension, the BWCHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any BWCHA-approved extension, the BWCHA will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA gives the BWCHA the explicit authority to bifurcate a lease, or to remove a household member from a lease, "in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a resident or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a resident or lawful occupant." Specific lease language affirming this authority is not necessary. Further, the authority supersedes any local, state, or other federal law to the contrary. However, if the BWCHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance [Pub.L. 109-271]. This means that the BWCHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

<u>BWCHA Policy</u>

The BWCHA will bifurcate a family's lease and terminate the tenancy of a family member if the BWCHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the BWCHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the BWCHA by the victim in accordance with this section. The BWCHA will also consider the factors in section 13.III.E. Upon such consideration, the BWCHA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the BWCHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, the BWCHA will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the BWCHA may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

BWCHA Confidentiality Requirements [Pub.L. 109-162]
All information provided to the BWCHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

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

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES, AND RECORD KEEPING

13-IV.A. OVERVIEW
HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]
HUD authorizes BWCHA to conduct criminal records checks on public housing residents for lease enforcement and eviction. BWCHA policy determines when the BWCHA will conduct such checks.

BWCHA Policy

The BWCHA will conduct criminal records checks when it has come to the attention of the BWCHA, either from local law enforcement or by other means, that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The BWCHA may not pass along to the resident the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the BWCHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the resident before any adverse action is taken. In such cases if the BWCHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the BWCHA must notify the household of the proposed action and must provide the subject of the record and the resident a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

BWCHA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the BWCHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the resident a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 14 calendar days from the date of the BWCHA notice, to dispute the accuracy and relevance of the information. If the family does not contact the BWCHA to dispute the information within that 14 calendar day period, the BWCHA will proceed with the termination action.

Should the resident not exercise their right to dispute prior to any adverse action, the resident still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine BWCHA documents directly relevant to the termination or eviction. If the BWCHA does not make the documents available for examination upon request by the resident, the BWCHA may not proceed with the eviction [24 CFR 996.4(m)].

When the BWCHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the BWCHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the resident to request a grievance hearing has expired and the grievance procedure has been completed.

When the BWCHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the resident is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the BWCHA for eviction of the resident, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the BWCHA, or for a drug-related criminal activity on or off the premises.

BWCHA Policy

The BWCHA will attempt to deliver notices of lease termination directly to the resident or an adult member of the household. (For terminations related to domestic violence, see also the policy under "Victim Notification" in section 13-III.F.) If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a statement of the protection against termination provided by the Violence against Women Reauthorization Act of 2005 (VAWA) for victims of domestic violence, dating violence, or stalking. They will also include a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in section 13-III.F.

Timing of the Notice [24 CFR 966.4(l)(3)(i)]

The BWCHA must give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)
    - If the health or safety of other residents, BWCHA employees, or persons residing in the immediate vicinity of the premises is threatened
    - If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
    - If any member of the household has been convicted of a felony

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

BWCHA Policy
The BWCHA will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations the BWCHA will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]
When the BWCHA finds that a family is in noncompliance with the community service requirement, the resident and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

BWCHA Policy
If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]
In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the BWCHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the BWCHA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]
Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The BWCHA may only evict the resident from the

unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

BWCHA Policy
When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the BWCHA will follow state and local landlord-resident law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the BWCHA will seek the assistance of the court to remove the family from the premises as per state and local law.

The BWCHA may not proceed with an eviction action if the BWCHA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]
When the BWCHA evicts an individual or family for criminal activity, including drug-related criminal activity, the BWCHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING
For more information concerning general record keeping, see Chapter 16.

BWCHA Policy
A written record of every termination and/or eviction will be maintained by the BWCHA at the development where the family was residing, and will contain the following information:

- Name of resident, number and identification of unit occupied
- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently
- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to BWCHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

> Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.
> Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and resident grievances.
> Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the BWCHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the BWCHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the BWCHA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded residents in the BWCHA grievance procedure [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

Use of Informal Hearing Process

While the BWCHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the BWCHA could make the informal hearing

process available to applicants who wish to dispute other BWCHA actions that adversely affect them.

BWCHA Policy
The BWCHA will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

The BWCHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the BWCHA decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

BWCHA Policy
A request for an informal hearing must be made in writing and delivered to the BWCHA either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the BWCHA's notification of denial of admission.

Except as provided in Section 3-III.F, the BWCHA will schedule and send written notice of the informal hearing within 14 calendar days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

BWCHA Policy
The informal hearing will be conducted by a person other than the one who made the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the BWCHA.

The person conducting the informal hearing will make a recommendation to the BWCHA, but the BWCHA is responsible for making the final decision as to whether admission should be granted or denied.

Informal Hearing Decision [PH Occ GB, p. 58]

BWCHA Policy
The BWCHA will notify the applicant of the BWCHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the BWCHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice

- The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in BWCHA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

- The validity of the evidence. The BWCHA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the BWCHA will uphold the decision to deny admission.

- If the facts prove the grounds for denial, and the denial is discretionary, the BWCHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The BWCHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 14 calendar days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the BWCHA must consider such accommodations. The BWCHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration

Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the BWCHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the BWCHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]
As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a resident, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the BWCHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]
When the BWCHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the BWCHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the BWCHA with a copy of the written request for appeal and proof of mailing.

> <u>BWCHA Policy</u>
> The BWCHA will notify the family in writing of the results of the USCIS secondary verification within 14 calendar days of receiving the results.
> The family must provide the BWCHA with a copy of the written request for appeal and proof of mailing within 14 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the BWCHA, of its decision. When the USCIS notifies the BWCHA of the decision, the BWCHA must notify the family of its right to request an informal hearing.

> BWCHA Policy
> The BWCHA will send written notice to the family of its right to request an informal hearing within 14 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the BWCHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the BWCHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.
The informal hearing procedures for applicant families are described below.

Informal Hearing Officer
The BWCHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence
The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the BWCHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

> BWCHA Policy
> The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of BWCHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the BWCHA, and to confront and cross-examine all witnesses on whose testimony or information the BWCHA relies.

Representation and Interpretive Services
The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the BWCHA, as may be agreed upon by the two parties. If the family does not arrange

for their own interpreter, the BWCHA is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing
The family is entitled to have the hearing recorded by audiotape. The BWCHA may, but is not required to provide a transcript of the hearing.

> BWCHA Policy
> The BWCHA will not provide a transcript of an audio taped informal hearing.

Hearing Decision
The BWCHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]
The BWCHA must retain for a minimum of 5 years the following documents that may have been submitted to the BWCHA by the family, or provided to the BWCHA as part of the USCIS appeal or the BWCHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the BWCHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the BWCHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

BWCHA must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any BWCHA action or failure to act involving the lease or BWCHA policies which adversely affect their rights, duties, welfare, or status.

The BWCHA grievance procedure must be included in, or incorporated by reference in, the lease.

> BWCHA Policy
> The BWCHA grievance procedure will be incorporated by reference in the resident lease.

The BWCHA must provide at least 30 days notice to residents and resident organizations setting forth proposed changes in the BWCHA grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the BWCHA before adoption of any grievance procedure changes by the BWCHA.

> BWCHA Policy
> Residents and resident organizations will have 30 calendar days from the date they are notified by the BWCHA of any proposed changes in the BWCHA grievance procedure, to submit written comments to the BWCHA.

The BWCHA must furnish a copy of the grievance procedure to each resident and to resident organizations.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a resident may have with respect to BWCHA action or failure to act in accordance with the individual resident's lease or BWCHA regulations which adversely affect the individual resident's rights, duties, welfare or status
- **Complainant** – any resident whose grievance is presented to the BWCHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the resident of the grounds for terminating the tenancy and for eviction
  - Right of the resident to be represented by counsel

- Opportunity for the resident to refute the evidence presented by the BWCHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have
- A decision on the merits

- **Hearing Officer/Panel** – a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto
- **Resident** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with the BWCHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Potential grievances could address most aspects of a BWCHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual resident issues relating to the BWCHA. It is not applicable to disputes between residents not involving the BWCHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the BWCHA.

If HUD has issued a due process determination, a BWCHA may exclude from the BWCHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the BWCHA
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, but may use expedited grievance procedures, as described in Section 14-III.E. below, to deal with the first two of the above three categories of lease terminations.

If HUD has issued a due process determination, the BWCHA may evict through the state/local judicial eviction procedures. In this case, the BWCHA is not required to provide the opportunity for a hearing under the BWCHA's grievance procedure as described above.

<u>BWCHA Policy</u>

The BWCHA is not located in a due process state, therefore it must grant opportunity for grievance hearings for all lease terminations, regardless of cause.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the BWCHA office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

> BWCHA Policy
> The BWCHA will accept requests for an informal settlement of a grievance either orally or in writing, to the BWCHA office within 14 calendar days of the grievable event. Within 14 calendar days of receipt of the request the BWCHA will arrange a meeting with the resident at a mutually agreeable time and confirm such meeting in writing to the resident.
>
> At the Informal Settlement meeting, the Complainant and the Manager shall attempt to resolve the complaint or dispute at this informal discussion.
>
> If a resident fails to attend the scheduled meeting without prior notice, the BWCHA will reschedule the appointment only if the resident can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.
>
> Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the resident and one retained in the BWCHA's resident file. The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

> BWCHA Policy
> The BWCHA will prepare a summary of the informal settlement within 5 business days; one copy to be given to the resident and one copy to be retained in the BWCHA's resident file.

For BWCHA who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING [24 CFR 966.55]

Requests for Hearing and Failure to Request [24 CFR 966.55(a), (c), and (d)]

All grievances must be presented in accordance with the informal procedures prescribed above as a condition prior to a grievance hearing. However, if the complainant can show good cause for failure to proceed with the informal settlement process to the hearing officer/panel, the hearing

officer/panel may waive this provision [24 CFR 966.55(d)].

The complainant must submit the request in writing for a grievance hearing within a reasonable time after receipt of the summary of informal discussion [24 CFR 966.55(a)]. The request must specify the reasons for the grievance and the action or relief sought.

BWCHA Policy
The resident must submit a written request for a grievance hearing to the BWCHA within 5 business days of the resident's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the BWCHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the BWCHA's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

Escrow Deposits [24 CFR 966.55(e)]

Before a hearing is scheduled in any grievance involving the amount of rent that the BWCHA claims is due, the family must pay an escrow deposit to the BWCHA. When a family is required to make an escrow deposit, the amount is the amount of rent the BWCHA states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer/panel.

The BWCHA must waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income [24 CFR 5.630(b)(3)].

Unless the BWCHA waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest the BWCHA's disposition of the grievance in any appropriate judicial proceeding.

BWCHA Policy
The BWCHA will not waive the escrow requirement for grievances involving rent amounts except where required to do so by regulation.

Scheduling of Hearings [24 CFR 966.55(f)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and the BWCHA. A written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate BWCHA official.

BWCHA Policy
Within 14 calendar days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the BWCHA.

The BWCHA may wish to permit the resident to request to reschedule a hearing for good cause.

BWCHA Policy
The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the BWCHA may request documentation of the "good cause" prior to rescheduling the hearing.

Expedited Grievance Procedure [24 CFR 966.55(g)]
The BWCHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the BWCHA, or
- Any drug-related criminal activity on or near such premises

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The BWCHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

BWCHA Policy
The BWCHA will follow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the BWCHA, or any drug-related criminal activity on or near such premises.

Such procedures will provide for an expedited notice of hearing request, an expedited scheduling of the hearing, and for an expedited decision on the grievance. The resident will have 3 business days to make their hearing request. The hearing officer will have 3 business days to schedule the hearing, and 3 business days to render a decision. All other aspects of the expedited grievance process shall be the same as for other grievances.

14-III.F. SELECTION OF HEARING OFFICER/PANEL [24 CFR 966.55(b)]
The grievance hearing must be conducted by an impartial person or persons appointed by the BWCHA, other than the person who made or approved the BWCHA action under review, or a subordinate of such person.

BWCHA Policy
BWCHA grievance hearings will be conducted by a single hearing officer and not a panel. The Hearing Officer will be an impartial employee of the Housing Authority who

was not involved in the original decision. BWCHA reserves the right to select an impartial person who shall not be an officer, employee, agent, or tenant of the Housing Authority when it deems appropriate.

The BWCHA must determine the methodology for appointment of the hearing officer and it must be stated in the grievance procedure.

BWCHA Policy
The BWCHA will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

The BWCHA must consult with resident organizations before a person is appointed as a hearing officer or hearing panel member. Comments from the resident organizations must be considered before making the appointment.

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

The opportunity to examine before the grievance hearing any BWCHA documents, including records and regulations that are directly relevant to the hearing. The resident must be allowed to copy any such document at the resident's expense. If the BWCHA does not make the document available for examination upon request by the complainant, the BWCHA may not rely on such document at the grievance hearing.

BWCHA Policy
The resident will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of BWCHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The right to be represented by counsel or other person chosen as the resident's representative and to have such person make statements on the resident's behalf.

BWCHA Policy
Hearings may be attended by the following applicable persons:

A BWCHA representative(s) and any witnesses for the BWCHA

The resident and any witnesses for the resident

The resident's counsel or other representative

Any other person approved by the BWCHA as a reasonable accommodation for a person with a disability

The right to a private hearing unless the complainant requests a public hearing.

The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the BWCHA or project management, and to cross-examine all witnesses upon whose testimony or information the BWCHA or project management relies.

A decision based solely and exclusively upon the facts presented at the hearing.

Decision without Hearing [24 CFR 966.56(c)]
The hearing officer/panel may render a decision without proceeding with the hearing if the hearing officer/panel determines that the issue has been previously decided in another proceeding.

Failure to Appear [24 CFR 966.56(d)]
If the complainant or the BWCHA fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the BWCHA must be notified of the determination by the hearing officer/panel: Provided, That a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest the BWCHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

> BWCHA Policy
> If the resident does not appear at the scheduled time of the hearing, the hearing officer will wait up to 15 minutes. If the resident appears within 15 minutes of the scheduled time, the hearing will be held. If the resident does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear.
>
> If the resident fails to appear and was unable to reschedule the hearing in advance, the resident must contact the BWCHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the resident can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.
>
> "Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

General Procedures [24 CFR 966.56(e), (f), and (g)]
At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the BWCHA must sustain the burden of justifying the BWCHA action or failure to act against which the complaint is directed [24 CFR 966.56(e)].

The hearing must be conducted informally by the hearing officer/panel. The BWCHA and the resident must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is

admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings [24 CFR 966.56(f)].

BWCHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the BWCHA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If the BWCHA fails to comply with the discovery requirements (providing the resident with the opportunity to examine BWCHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the BWCHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer/panel must require the BWCHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer/panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate [24 CFR 966.56(f)].

The complainant or the BWCHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(g)].

BWCHA Policy

If the complainant would like the BWCHA to record the proceedings by audiotape, the request must be made to the BWCHA by 12:00 p.m. on the business day prior to the hearing.

The BWCHA will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(h)]
The BWCHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident is visually impaired, any notice to the resident which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the BWCHA's responsibilities pertaining to reasonable accommodation.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL [24 CFR 966.57]

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the resident and the BWCHA. The BWCHA must retain a copy of the decision in the resident's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by the BWCHA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

BWCHA Policy

In rendering a decision, the hearing officer will consider the following matters:

BWCHA Notice to the Family: The hearing officer will determine if the reasons for the BWCHA's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with BWCHA policy.

BWCHA Evidence to Support the BWCHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the BWCHA's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and BWCHA policies. If the grounds for termination are not specified in the regulations or in compliance with BWCHA policies, then the decision of the BWCHA will be overturned.

The hearing officer will issue a written decision to the family and the BWCHA no later than 14 calendar days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant
Date, time, and place of the hearing
Name of the hearing officer
Name of the BWCHA representative(s)
Name of family representative (if any)
Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the BWCHA's decision.

Order: The hearing report will include a statement of whether the BWCHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the BWCHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the BWCHA to restore the family's status.

Procedures for Further Hearing

BWCHA Policy
The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the BWCHA will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]
The decision of the hearing officer/panel is binding on the BWCHA which must take the action,

or refrain from taking the action cited in the decision unless the BWCHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern BWCHA action or failure to act in accordance with or involving the complainant's lease on BWCHA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the BWCHA

BWCHA Policy

When the BWCHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the BWCHA Board of Commissioners within 14 calendar days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 14 calendar days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners in favor of the BWCHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The BWCHA is committed to ensuring that funds made available to the BWCHA are spent in accordance with HUD requirements.

This chapter covers HUD and BWCHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents BWCHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the BWCHA must and may take when errors or program abuses are found.

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

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

BWCHA Policy

The BWCHA anticipates that the vast majority of families and BWCHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the BWCHA's program is administered effectively and according to the highest ethical and legal standards, the BWCHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The BWCHA will provide each applicant and resident with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

The BWCHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The BWCHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

The BWCHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

BWCHA staff will be required to review and explain the contents of all HUD- and BWCHA-required forms prior to requesting family member signatures.

The BWCHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key BWCHA forms and form letters that request information from a family member.

The BWCHA will provide each BWCHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the BWCHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

BWCHA Policy

The BWCHA will employ a variety of methods to detect errors and program abuse, including:

The BWCHA routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The BWCHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of BWCHA activities and notifies the BWCHA of errors and potential cases of program abuse.

BWCHA Policy

The BWCHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the BWCHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

BWCHA Policy

The BWCHA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the BWCHA Will Investigate

BWCHA Policy

The BWCHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the BWCHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The BWCHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The BWCHA may investigate possible instances of error or abuse using all available BWCHA and public records. If necessary, the BWCHA will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

BWCHA Policy

The BWCHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the BWCHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the BWCHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the BWCHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

BWCHA Policy

In the case of family-caused errors or program abuse, the BWCHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

BWCHA Policy

The BWCHA will inform the relevant party in writing of its findings and remedies within 14 calendar days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the BWCHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect resident rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the BWCHA must promptly correct the resident rent and any utility reimbursement prospectively.

BWCHA Policy

Increases in the resident rent will be implemented only after the family has received 30 days notice.

Any decreases in resident rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the BWCHA or the BWCHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the BWCHA to use incorrect information provided by a third party.

Family Reimbursement to BWCHA

BWCHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The BWCHA may, but is not required to, offer the family

a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the BWCHA will terminate the family's lease in accordance with the policies in Chapter 13.

BWCHA Reimbursement to Family

BWCHA Policy

The BWCHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the BWCHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the BWCHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

BWCHA Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to the BWCHA Board of Commissioners, employees, contractors, or other BWCHA representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the BWCHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The BWCHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the BWCHA may, at its discretion, impose any of the following remedies.

- The BWCHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to BWCHA).
- The BWCHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).

- The BWCHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The BWCHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. BWCHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of BWCHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a BWCHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the BWCHA personnel policy.

BWCHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to the BWCHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by BWCHA staff.

BWCHA Reimbursement to Family

BWCHA Policy

The BWCHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

BWCHA Policy

Any of the following will be considered evidence of program abuse by BWCHA staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the BWCHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of BWCHA activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal

housing program

15-II.D. CRIMINAL PROSECUTION

BWCHA Policy

When the BWCHA determines that program abuse by a family or BWCHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the BWCHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

BWCHA who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the BWCHA recovers [Notice PIH 2005-7 (HA)].

If the BWCHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the BWCHA's grievance process

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of BWCHA-furnished utilities.
Part II: Establishing Flat Rents and Public Housing Maximum Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts and public housing maximum rents.
Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which the BWCHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.
Part IV: Public Housing Assessment System (BWCHA). This part describes the BWCHA indicators, how BWCHA are scored under BWCHA, and how those scores affect a BWCHA.
Part V: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the BWCHA will follow.
Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the BWCHA's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.
Part VII: Notification to Applicants and Residents regarding Protections under the Violence against Women Reauthorization Act of 2005 (VAWA). This part includes policies for notifying applicants and residents of VAWA requirements.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

BWCHA must establish allowances for BWCHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

BWCHA must also establish surcharges for excess consumption of BWCHA-furnished utilities [24 CFR 965.506].

The BWCHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

The BWCHA must establish separate allowances for each utility and for each category of dwelling units the BWCHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a BWCHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the BWCHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505]. Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location, and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138]. Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the BWCHA about establishing utility allowances.

Utility Allowance Revisions [24 CFR 965.507]

The BWCHA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The BWCHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

> <u>BWCHA Policy</u>
> Between annual reviews of utility allowances, the BWCHA will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR BWCHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for BWCHA-furnished utilities where check meters have been installed, the BWCHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the BWCHA's average utility rate. The

basis for calculating the surcharges must be described in the BWCHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the BWCHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by BWCHA-furnished utilities where check meters have not been installed, the BWCHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of BWCHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of BWCHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the BWCHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

BWCHA Policy
The BWCHA does not have BWCHA-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

The BWCHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where the BWCHA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the BWCHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the BWCHA establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b)]

Establishing Flat Rents

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent should be equal to the estimated rent for which the BWCHA could promptly lease the public housing unit after preparation for occupancy. The BWCHA must use a reasonable method to determine flat rents. In determining flat rents, BWCHA must consider the following:

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

Review of Flat Rents

The BWCHA must ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b)].

> <u>BWCHA Policy</u>
> The BWCHA will review flat rents on an annual basis, and adjust them as necessary to ensure that flat rents continue to mirror market rent values.

Posting of Flat Rents

BWCHA Policy

The BWCHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable BWCHA or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The BWCHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the BWCHA in accordance with this method.

16-II.C. PUBLIC HOUSING MAXIMUM RENTS

Establishing Public Housing Maximum Rents

BWCHA are prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status [24 CFR 5.500]. Therefore, in order to assist mixed families, BWCHA must prorate assistance. Public housing maximum rents are needed in order to calculate the resident rent for a mixed family.

The public housing maximum rent is based on value of the 95th percentile of the total resident payment (TTP) for each resident within the BWCHA. BWCHA may calculate a maximum rent on either a BWCHA- or project wide basis. A separate maximum rent can be provided for each separate project or projects may be combined into logical groups, if appropriate. HUD recommends that a single project basis be avoided for a project unless at least 50 dwelling units are involved.

BWCHA may use the “direct comparison” or the “unit distribution” method for establishing the public housing maximum rents for each unit size. Appendix H, of Guidebook 7465.G, Restrictions on Assistance to Noncitizens provides detailed guidance on how to establish public housing maximum rents using the methodologies identified above.

Review of Public Housing Maximum Rents

BWCHA Policy

The BWCHA will recalculate the public housing maximum rents on an annual basis.

Posting of Public Housing Maximum Rents

BWCHA Policy

The BWCHA will publicly post the schedule of public housing maximum rents in a conspicuous manner in the applicable BWCHA or project office.

Documentation of Public Housing Maximum Rents

BWCHA Policy

The BWCHA will maintain records that document how the BWCHA determined the 95th percentile of TTP, whether the maximum rent was determined BWCHA-wide, project-

wide, or with groupings of projects, and the methodology used to determine maximum rents for each unit size.

PART III: FAMILY DEBTS TO THE BWCHA

16-III.A. OVERVIEW

This part describes the BWCHA's policies for recovery of monies that have been underpaid by families.

BWCHA Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the BWCHA holds the family liable to return any underpayments to the BWCHA.

The BWCHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. The term r*epayment agreement* refers to a formal document signed by a resident and provided to the BWCHA in which a resident acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to the BWCHA, the BWCHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

16-III.B. REPAYMENT POLICY

Family Debts to the BWCHA

BWCHA Policy

Any amount due to the BWCHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the BWCHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the BWCHA will terminate the family's tenancy in accordance with the policies in Chapter 13. The BWCHA will also pursue other modes of collection.

Repayment Agreement Guidelines

Down Payment Requirement

BWCHA Policy

Prior to the execution of a repayment agreement, the family must pay 10 percent of the balance owed to the BWCHA.

Payment Thresholds

BWCHA Policy

Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months.

Execution of the Agreement

BWCHA Policy

The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

Due Dates

BWCHA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Non-Payment

BWCHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the BWCHA, the BWCHA will send the family a delinquency notice giving the family 14 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the BWCHA will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and the BWCHA will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

BWCHA Policy

The BWCHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (BWCHA)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (BWCHA) is to improve the delivery of services in public housing and enhance trust in the public housing system among BWCHA, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. BWCHA INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the BWCHA indicators, the points possible under each indicator, and a brief description of each indicator. A BWCHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the BWCHA's properties **Maximum Score: 30** • The objective of this indicator is to determine the level to which a BWCHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair. • To determine the physical condition of a BWCHA's properties, inspections are performed of the following five major areas of public housing: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in the BWCHA's public housing portfolio.
Indicator 2: Financial condition of a BWCHA **Maximum Score: 30** • The objective of this indicator is to measure the financial condition of a BWCHA for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair. • A BWCHA's financial condition is determined by measuring the BWCHA's entity-wide performance in each of the following components: current ratio, number of months expendable fund balance, resident receivable outstanding, occupancy loss, expense management/utility consumption, and net income or loss divided by the expendable fund balance.

Indicator 3: Management operations of a BWCHA **Maximum Score: 30** • The objective of this indicator is to measure certain key management operations and responsibilities of a BWCHA for the purpose of assessing the BWCHA's management operations capabilities. • A BWCHA's management operations are assessed based on the following sub-indicators: vacant unit turnaround time, capital fund, work orders, BWCHA annual inspection of

units and systems, security, and economic self-sufficiency.
Indicator 4: Resident service and satisfaction **Maximum Score: 10** • The objective of this indicator is to measure the level of resident satisfaction with living conditions at the BWCHA. • The BWCHA's score for this indicator is based on the results of resident surveys and the level of implementation and follow-up or corrective actions the BWCHA takes based on the results of the survey.

16-IV.C. BWCHA SCORING [24 CFR 902.63 and 902.67]

HUD's Real Estate Assessment Center (REAC) issues overall BWCHA scores, which are based on the scores of the four BWCHA indicators, and the components under each indicator. BWCHA scores translate into a designation for each BWCHA as high performing, standard, or troubled.

A high performer is a BWCHA that achieves a score of at least 60 percent of the points available under each of the four indicators, and achieves an overall BWCHA score of 90 or greater.

A standard performer is a BWCHA that has an overall BWCHA score between 60 and 89, and does not achieve less than 60 percent of the total points available under one of the following Indicators: 1, 2, or 3.

A troubled performer is a BWCHA that achieves an overall BWCHA score of less than 60, or achieves less than 60 percent of the total points available under more than one of the following indicators: 1, 2, or 3.

These designations can affect a BWCHA in several ways:

- High-performing BWCHA are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- BWCHA that are standard performers may be required to submit an improvement plan to eliminate deficiencies in the BWCHA's performance [24 CFR 902.73(a)].
- BWCHA with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve BWCHA performance [24 CFR 902.75].
- BWCHA that fail to execute or meet MOA requirements may be referred to the Departmental Enforcement Center [24 CFR 902.77].

BWCHA must post a notice of its final BWCHA score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and status.

PART V: RECORD KEEPING

16-V.A. OVERVIEW

The BWCHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the BWCHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

BWCHA Policy

During the term of each public housing tenancy, and for at least four years thereafter, the BWCHA will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, the BWCHA will keep the following records for at least four years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents and the public housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation supporting BWCHA scores
- Accounts and other records supporting BWCHA budget and financial statements for the program
- Other records as determined by the BWCHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

BWCHA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

BWCHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized BWCHA staff.

BWCHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the BWCHA may release the information collected.

Upfront Income Verification (UIV) Records
BWCHA that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document,

Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data.

> BWCHA Policy
> BWCHA has implemented a separate EIV security and use procedure in accordance with HUD regulations.

Criminal Records
The BWCHA may only disclose the criminal conviction records which the BWCHA receives from a law enforcement agency to officers or employees of the BWCHA, or to authorized representatives of the BWCHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The BWCHA must establish and implement a system of records management that ensures that any criminal record received by the BWCHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the BWCHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The BWCHA must establish and implement a system of records management that ensures that any sex offender registration information received by the BWCHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the BWCHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a BWCHA other than under 24 CFR 5.905.

Medical/Disability Records
BWCHA are not permitted to inquire about the nature or extent of a person's disability. The

BWCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the BWCHA receives a verification document that provides such information, the BWCHA should not place this information in the resident file. The BWCHA should destroy the document.

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

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

The BWCHA has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The BWCHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. The BWCHA must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

> BWCHA Policy
> The BWCHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.
>
> The BWCHA will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

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

16-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2005 (VAWA) requires BWCHA to inform public housing residents of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as residents, BWCHA may elect to provide the same information to applicants.

This part describes the steps that the BWCHA will take to ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

16-VII.B. VAWA NOTIFICATION

> BWCHA Policy
> The BWCHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.
>
> > A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence,

dating violence, or stalking (see sample notice in Exhibit 16-1)

The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that the BWCHA may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking

A statement of the BWCHA's obligation to keep confidential any information that it receives from a victim unless (a) the BWCHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

16-VII.C. NOTIFICATION TO APPLICANTS

BWCHA Policy
The BWCHA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of BWCHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The BWCHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.F).

16-VII.D. NOTIFICATION TO RESIDENTS [Pub.L. 109-162]

VAWA requires BWCHA to notify residents assisted under public housing of their rights under this law, including their right to confidentiality and the limits thereof.

BWCHA Policy
The BWCHA will provide all residents with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the resident of BWCHA confidentiality requirements, and provide contact information for local victim

advocacy groups or service providers.

The BWCHA will also include in all lease termination notices a statement explaining the protection against termination or eviction provided by VAWA (see Section 13-IV.D).

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

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

The housing authority can still evict you if the housing authority can show there is an *actual* and *imminent* (immediate) threat to other residents or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to residents who are not victims.

Removing the Abuser from the Household

The housing authority may split the lease to evict a resident who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining residents' rights to the unit or otherwise punish the remaining residents. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

Proving that You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority can ask you to prove or "certify" that you are a victim of domestic violence, dating violence, or stalking. In cases of termination or eviction, the housing authority must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

Confidentiality

The housing authority must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority to release the information.

If release of the information would put your safety at risk, you should inform the housing authority.

VAWA and Other Laws

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

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact _____ at _____.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a resident may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines ***stalking*** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

Chapter 17

HOUSE RULES AND REGULATIONS

The following are House Rules and are additional rules and regulations governing and regulating the activity and behavior of the Residents and their guests and are additional obligations of the Residents under their lease.

A. **Towing/Abandoned Vehicles:** The parking and removal of vehicles shall be subject to BWCHA towing policy set forth in Chapter 18, below. Residents shall only be allowed to park one (1) vehicle on-site however, additional vehicles may be approved by BWCHA pursuant to the Towing Policy or Towing Procedures. Trailers, boats, commercial vehicles, recreational vehicles, truck campers, and inoperable, unlicensed, or disabled passenger vehicles of any kind shall not be parked on the premises, common areas, or street without prior approval of BWCHA. Vehicles which have been abandoned, that are not operable, or do not have current license tabs shall have a sticker placed on the windshield giving the owner or operator notice that requires the vehicle to be removed from the property within 5 calendar days, or it will be towed a the owner's expense pursuant to the Towing Policy and Towing Procedures. Vehicles are not permitted to be stored on the property, nor shall they be used for storage of personal items. Vehicles that have not moved in 72 hours will be considered abandoned and towed pursuant to the towing policy.

B. **Parking/Vehicle Registration.** Each vehicle shall be registered pursuant to BWCHA Vehicle Registration Procedure. Each vehicle of a Resident, dependant, live-in aid, guest, or other shall be parked only in designated areas. Failure to register a vehicle and/or park in properly designated areas shall subject the vehicle to being towed at the owner's expense pursuant to the Towing Policy set forth herein.

C. **Quiet Hours.** BWCHA reserves the right to establish quiet hours at each facility in order to assure and maintain the peace and quiet enjoyment of the premises for all Residents. Quiet hours are daily between 10 PM to 7 AM, and are in accordance with the quiet hours established by the City of Bellingham and Whatcom County. The following sounds are determined to be a public disturbance:

- Frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle.

- Frequent, repetitive or continuous sounds which emanate from any building, structure or apartment, which unreasonably interferes with the peace, repose of any person on public or private property.

- Sound from audio equipment, such as tape players, radios, and compact disc players operated at volume so as to be audible greater than 50' from the source and outside the property of the operator.

D. **Noise.** Residents, family, and guests shall keep the volume of musical instruments, radios, televisions, etc. at a level that will not disturb neighbors. Playing sound producing devices at volumes that disturb other Residents is a lease violation.

E. **Domestic Violence.** Domestic Violence as defined by RCW 10.99.020, or otherwise, is prohibited. In accordance with the Violence Against Women Act, any incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and will not be good cause for terminating the assistance, tenancy or occupancy rights of the victim of such violence. A resident may not have their tenancy terminated on the basis of criminal activity directly relating to domestic violence, dating violence or stalking engaged in by a member of the resident family of the victim or threatened victim of that domestic violence, dating violence or stalking. The Housing Authority reserves the right to terminate or evict a resident if the Housing Authority can demonstrate an actual and imminent threat to other tenants or the Housing Authority's employees if the tenant is not evicted or the lease terminated.
In order to obtain protection under this law applicants and residents must certify their status as a victim of domestic violence, dating violence or stalking. The Housing Authority can provide you with the certification form. In addition, the Housing Authority may request additional documentation to support the statements in your certification. The individual shall provide the certification within 14 days of the Housing Authority requesting, in writing, the certification. If the individual fails to provide the certification, the Housing Authority may proceed with its decision to deny eligibility or evict or terminate the lease.

F. **Solicitation**. Solicitation by any individual, group, or party on the premises is prohibited.

G. **Transfer Policies**. The transfer of a Resident from one unit to any other unit shall be subject to the transfer policies of BWCHA.

H. **Americans with Disability Act & Section 504 – Equal Access**. All requests for accommodation by residents who have a disability shall be submitted to the management staff. All accommodation requests are processed in accordance with BWCHA's policies. The policy and accommodation request forms are available upon request.

I. **Laundry Facility**. Use of the laundry facility is subject to the rules established for each facility by BWCHA. Laundry facility is for the use of residents only. Family, friends, and guests are prohibited from using the laundry facilities for their own personal use.

J. **Common Area Use.** Use of the common areas is subject to the rules established for each facility by BWCHA.

K. **Firearms/Fireworks.** The Resident(s) or the guests of Resident(s) shall not discharge any firearm, fireworks, explosives, pellet gun, BB gun, slingshot, bow, and arrow, or any other instrument or device capable of launching a projectile of any type in, on, or near the premises.

L. **Smoking.** Smoking and the use of all other types of tobacco products are strictly prohibited on all BWCHA properties including but not limited to common areas or entryways, residential units, all exterior areas of the grounds/property unless otherwise specified to be a designated smoking area. Residents who smoke or use other types of tobacco products must do so off of BWCHA property. Residents are responsible to notify their guests of the BWCHA Non-Smoking Policy.

M. **Barbecue/Grills. The use** of barbecues and grills shall only occur within designated common areas. The use of barbecues and grills inside or outside the unit (including balconies) and other than in the designated common areas is strictly prohibited and constitutes a material breach of the lease agreement.

N. **Guest Limitations.** Any person who spends a night at a unit and is not a Resident or an approved dependant shall be deemed a Guest. Guests are limited to 14 consecutive nights per year at a unit, and 21 total days per year within a property. A guest of one Resident may not stay with one Resident and become a guest of another Resident where the total number of days at a property exceeds 21 days per year. Exceptions to the limitations on guest stays, such as in the instance of a health situation, assisted living or other similar circumstance may be made in writing to BWCHA Management, with supporting attached documentation from a licensed physician prior to the commencement of the guest(s) arrival at the property.

O. **Action of Family Members and Guests.** Residents are responsible for:

- the conduct of their family members and guests and agree to reimburse management for any damage caused by them; guests who create disturbances and nuisances or damage the property will be asked to leave and guests may be trespassed from the property.
- Ensuring guests adhere to all House Rules.
- Any behavior that is loud or otherwise disrupts the rights to quiet enjoyment of other Residents.
- Ensuring family members and guests do not loiter or run in stairways, hallways, landscaped areas or parking areas.

P. **Criminal Activity.** The Resident shall not engage in any activity that would be considered criminal in nature including the illegal use, sale, or distribution of drugs, any criminal activity, and/or any physical violence to persons or property by any resident or member of a resident household, on or off the premises. This includes but is not limited to the manufacture of methamphetamine or any illegal narcotic on the premises of BWCHA. The Resident shall take all reasonable measures to prevent and stop any criminal activity within their unit regardless of who conducts or has conducted the activity. The Resident shall take all reasonable measures to alert the police and/or the resident manager and/or BWCHA staff of the illegal activity immediately upon learning of it. This includes any drug-related activity as well as the possession of narcotics or illegal firearms on the premises.

Q. **Abusive Language.** Abusive language or foul language interferes with the rights of other Residents or Staff to the quiet enjoyment of the premises. Such language is not allowed in common areas or in other area where people congregate.

R. **Non-motorized bicycle storage**. Residents may store non motorized bicycles they own in either the bicycle racks provided by the BWCHA or directly in their apartment. Bicycles stored in the racks are subject to the BWCHA bicycle storage policy and procedures.

S. **Vehicle Maintenance.** Resident(s) and their guest(s) are prohibited from storing or working on vehicles on the premises. This includes but is not limited to changing oil, rotating tires, engine tune-up, and any other types of mechanical vehicle maintenance.

T. **Signage.** Residents are to refrain from placing signs, placards, or banners of any type in or about the dwelling except those allowed under applicable zoning ordinances and then only after having received written permission of BWCHA. Refusal or repeated failure of the Resident to comply with any such rule or regulation shall constitute good cause for termination of this agreement by BWCHA and for eviction of the Resident in accordance with the Resident's lease agreement.

U. **Satellite Dishes.** Residents are to refrain from installing satellite dishes without prior written permission for BWCHA. Satellite dishes must be professionally installed and located in BHA approved location. Satellite Installers and method of installation must be approved by BHA prior to installation. Wiring may not be affixed to the building or going through windows or doors.

Chapter 18

TRESPASS POLICY

Any non-resident will be directed to leave and will be barred from returning to any BWCHA property if that person or persons has engaged in the following:

A. Makes unreasonable noise;

B. Engages in fighting or in violent or threatening behavior;

C. Substantially interferes with any right, comfort or convenience of any BWCHA resident or employee;

D. Engages in any activity that constitutes a criminal offense;

E. Engages in any activity involving firearms, illegal drugs or violence;

F. Damages, defaces or destroys any property belonging to BWCHA, or any BWCHA resident or employee;

G. Litters on any BWCHA property;

H. Drives in a careless or reckless manner;

I. Acts in a manner that would be considered a violation of the Fair Housing Act or the Civil Rights Act; or

J. Engages in gang activity, including, but not limited to:

K. wearing clothing, jewelry, or tattoos unique to gang affiliation (color alone is not sufficient to establish gang affiliation);

L. grouping to show gang affiliation or to intimidate rival gangs or Residents; or

M. claiming gang membership.

Any person who fails to leave the property after being directed to do so, or who returns to the property after being given such direction, will be subject to arrest and prosecution for Criminal Trespass under RCW9A.52.070, OR RCW 9A.52.080. Resident managers and BWCHA staff shall be authorized to initiate an action of Trespass against any persons who engage in any of the above activities

Notice to excluded persons

A. Any excluded or trespassed person as well as the Resident they are visiting shall receive written notice that the excluded person(s) are prohibited from entering or remaining on the premises including the common areas of the designated BWCHA property for any reason whatsoever, and that entering or remaining on the designated property may result in arrest for Criminal Trespass (RCW9A.52.070 or RCW 9A.52.080).

B. The Resident(s), and/or an excluded person, may appeal the exclusion. To do so, a written request for review consistent with the Grievance Policy contained herein, must be filed within fourteen (14) days to BWCHA Rental Management Supervisor with an attached copy of the Trespass Notice.

C. The Resident and/or the excluded person may apply for a temporary waiver of the Notice to exclude a guest. To do so, the waiver request, including a statement of the reasons justifying the waiver, and a copy of the trespass form, must be filed in writing to BWCHA Security Services Manager.

D. After one year from the date of this exclusion notice, the excluded person and/or Resident may apply in writing to the Rental Management Supervisor for reconsideration of the exclusion.

E. The exclusion remains in effect during any appeal, request for waiver or request for reconsideration and is only lifted by written notice from the Rental Management Supervisor or a member of BWCHA Management Staff.

F. Residents who allow any known trespassed person onto the property are subject to termination of their tenancy.

Chapter 19

TOWING POLICY

The parking and removal of vehicles shall be subject to BWCHA towing policy, and BWCHA towing procedures adopted by BWCHA Management.

A. **ABANDONED AND INOPERABLE VEHICLES**. Vehicles which have been abandoned, are not operable, or do not have current license tabs shall be labeled with a notice that requires the vehicle to be removed from the property within the time frame set forth in BWCHA procedures, or it will be towed a the owner's expense pursuant to the Towing Procedures adopted by BWCHA Management.

B. **IMPROPERLY PARKED VEHICLE**. All vehicles shall be parked in areas designated for vehicles. Vehicles parked in areas not designated for vehicles, including but not limited to sidewalks, flowerbeds, yards, lawns, driveways, entryways, areas marked no parking, handicap stalls that are assigned to other residents, shall be deemed an "Improperly Parked Vehicle." All Improperly Parked Vehicles are subject to immediate towing at the owner's sole expense, pursuant to the Towing Procedures adopted by BWCHA Management.

C. **DANGEROUS VEHICLES**. Dangerous vehicles include, but are not limited to vehicles that pose an immediate danger to the health or safety of the Residents and/or their guests. Such vehicles include, but are not limited to those parked in fire lanes, blocked up on jack stands or other devices, vehicles requiring blocks under the wheels to prevent them from rolling, and/or vehicles with attachments, parts or pieces, whether original equipment or otherwise, that may by their nature, location and/or configuration could cause injury or damage to persons or other property. Dangerous vehicles are subject to immediate towing at the owner's sole expense, pursuant to the Towing Procedures adopted by BWCHA Management.

D. **OPERABLE VEHICLES**. Operable vehicles that are properly licensed must be used on a regular basis and not be stored in a parking space. Vehicles should be moved every 72 hours or be subject to tow at the owner's expense pursuant to the Towing Procedures adopted by BWCHA Management.

Chapter 20

GLOSSARY

50058 Form: The HUD form that housing authorities are required to complete for each assisted household in public housing to record information used in the certification and re-certification process and, at the option of the housing authority, for interim Recertification's.

1937 Housing Act: The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (24 CFR 5.100)

Adjusted Annual Income: This is the amount of the household income, after deductions for specified allowances, on which the Resident rent is based. (24 CFR 5.611)

Adult: A household member who is 18 years or older or who is the head of the household, or spouse, or co-head.

Allowances: Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly families, disability expenses, and childcare expenses for children less than 13 years of age. Other allowance can be given at the discretion of the housing authority.

Annual Contributions Contract (ACC): The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program. (24 CFR 5.403)

Annual Income: All amounts, monetary or not, that:

A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual recertification effective date; and
C. Are not specifically excluded from annual income.

Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access. (1937 Housing Act; 24 CFR 5.609*)*

Applicant (applicant family): A person or family that has applied for admission to a program but is not yet a participant in the program. (24 CFR 5.403)

As-Paid States: States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs. Currently, the four as-paid States are New Hampshire, New York, Oregon, and Vermont.

Assets: The value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property

such as furniture and automobiles are not counted as assets. (Also see "net family assets.")

Asset Income: Income received from assets held by family members. If assets total more than $5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income. (See "imputed asset income" below.)

Assistance applicant: A family or individual that seeks admission to the public housing program.

Ceiling Rent: Maximum rent allowed for some units in public housing projects.

Certification: The examination of a household's income, expenses, and family composition to determine the family's eligibility for program participation and to calculate the family's share of rent.

Child: For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age. (24 CFR 5.504(b))

Child Care Expenses: Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income. (24 CFR 5.603(d))

Citizen: A citizen or national of the United States. (24 CFR 5.504(b))

Consent Form: Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits. (24 CFR 5.214)

Covered Families: Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Criminal Activity: Any activity that would be considered a crime under the laws of the State of Washington, the applicable municipality, federal laws, or any other applicable authority, regardless of whether there is an actual criminal charge filed or a conviction entered.

Dating Violence: Violence committed by a person:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Decent, Safe, and Sanitary: Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

Department: The Department of Housing and Urban Development. (24 CFR 5.100)

Dependent: A member of the family (except foster children and foster adults), other than the family head or spouse, who is under 18 years of age or is a person with a disability or is a full-time student. (24 CFR 5.603(d))

Dependent Allowance: An amount, equal to $480 multiplied by the number of dependents, that is deducted from the household's annual income in determining adjusted annual income.

Disability Assistance Expenses: Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source. (24 CFR 5.603(d))

Disability Assistance Expense Allowance: In determining adjusted annual income, the amount of disability assistance expenses deducted from annual income for families with a disabled household member.

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

Disabled Person: See "person with disabilities."

Displaced Family: A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. (24 CFR 5.403(b))

Displaced Person: A person displaced by governmental action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. *[1937 Act]*

Domestic Violence: Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim share a child in common, by a person who is cohabitated with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Drug-Related Criminal Activity: Drug trafficking or the illegal use, or possession for personal use, of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802.

Economic self-sufficiency program: Any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

Elderly Family: A family whose head, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides. (24 CFR 5.403)

Elderly Family Allowance: For elderly families, an allowance of $400 is deducted from the household's annual income in determining adjusted annual income.

Elderly Person: A person who is at least 62 years of age. (1937 Housing Act)

Extremely low-income families: Those families whose incomes do not exceed 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Fair Housing Act: Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.). (24 CFR 5.100)

Family includes but is not limited to**:**

A. A family with or without children;
B. An elderly family;
C. A near-elderly family;
D. A disabled family;
E. A displaced family;
F. The remaining member of a Resident family; and
G. A single person who is not an elderly or displaced person, a person with disabilities, or the remaining member of a Resident family. (24 CFR 5.403)

Family Members: All members of the household other than live-in aides, foster children, and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the lease.

Family Self-Sufficiency Program (FSS Program): The program established by a housing authority to promote self-sufficiency among participating families, including the coordination of supportive services. (24 CFR 984.103(b))

Flat Rent: A rent amount the family may choose to pay in lieu of having their rent determined under the income method. The flat rent is established by the housing authority set at the lesser of the market value for the unit or the cost to operate the unit. Families selecting the flat rent option have their income evaluated once every three years, rather than annually.

Full-Time Student: A person who is attending school or vocational training on a full-time basis.

Head of Household: The adult member of the family who is the head of the household for purposes of determining income eligibility and rent. (24 CFR 5.504(b))

Household Members: All members of the household including members of the family, live-in aides, foster children, and foster adults. All household members are listed on the lease, and no one other than household members is listed on the lease.

Housing Assistance Plan: A housing plan that is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR 570.

Imputed Income: For households with net family assets of more than $5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used as income from assets in determining annual income.

Imputed welfare income: The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

In-Kind Payments: Contributions other than cash made to the family or to a family member in exchange for services provided or for the general support of the family (e.g., groceries provided on a weekly basis, baby sitting provided on a regular basis).

Income Method: A means of calculating a family's rent based on 10% of their monthly income, 30% of their adjusted monthly income, the welfare rent, or the minimum rent. Under the income method, rents may be capped by a ceiling rent. Under this method, the family's income is evaluated at least annually.

Interim (examination): A recertification of a family income, expenses, and household composition conducted between the regular annual recertification’s when a change in a household's circumstances warrants such a recertification.

Live-In Aide: A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities and who:

A. Is determined to be essential to the care and well being of the persons;
B. Is not obligated for the support of the persons; and
C. Would not be living in the unit except to provide the necessary supportive services. (24 CFR 5.403(b))

Low-Income Families: Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

Medical Expenses: Medical expenses (of all family members of an elderly or disabled family), including medical insurance premiums that are anticipated during the period for which annual income is computed and that are not covered by insurance. (24 CFR 5.603(d)). These expenses include, but are not limited to, prescription and non-prescription drugs, costs for doctors, dentists, therapists, medical facilities, care for a service animals, and transportation for medical purposes.

Mixed Family: A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status. (24 CFR 5.504(b))

Mixed population development: A public housing development, or portion of a development, that was reserved for elderly and disabled families at its inception (and has retained that character). If the development was not so reserved at its inception, BWCHA has obtained HUD approval to give preference in Resident selection for all units in the development (or portion of development) to elderly families and disabled families. These developments were formerly known as elderly projects.

Monthly Adjusted Income: One twelfth of adjusted income. (24 CFR 5.603(d))

Monthly Income: One twelfth of annual income. (24 CFR 5.603(d))

National: A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession. (24 CFR 5.504(b))

Near-Elderly Family: A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides. (24 CFR 5.403(b))

Net Family Assets:

A. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts

in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

B. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.

C. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or Resident 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 recertification, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or Resident receives important consideration not measurable in dollar terms. (24 CFR 5.603(d)).

Non-Citizen: A person who is neither a citizen nor national of the United States. (24 CFR 5.504(b))

Occupancy Standards: The standards that a housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

Participant: A family or individual that is assisted by the public housing program.

Person with Disabilities: A person who:

A. Has a disability as defined in 42 U.S.C. 423

B. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

1. Is expected to be of long-continued and indefinite duration;
2. Substantially impedes his or her ability to live independently; and
3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

C. Has a developmental disability as defined in 42 U.S.C. 6001

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

Previously unemployed: This includes a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Processing Entity: The person or entity that is responsible for making eligibility and related determinations and an income recertification. In the Section 8 and public housing programs, the

processing entity is the responsibility entity.

Proration of Assistance: The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance. (24 CFR5.520)

Public Housing: Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed-finance project that are assisted by a BWCHA with capital or operating funds.

Public Housing Agency (BHA/WCHA): Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing under the 1937 Housing Act. (24 CFR 5.100)

Recertification: The annual recertification of a family's income, expenses, and composition to determine the family's rent.

Remaining Member of a Resident Family: A member of the family listed on the lease who continues to live in the public housing dwelling after all other family members have left. (Handbook 7565.1 REV-2, 3-5b.)

Responsible Entity:

A. For the public housing program, the Section 8 Resident Resident-based assistance program (24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means BWCHA administering the program under an ACC with HUD;
B. For all other Section 8 programs, responsible entity means the Section 8 project owner.

Self-Declaration: A type of verification statement by the Resident as to the amount and source of income, expenses, or family composition. Self-declaration is acceptable verification only when third-party verification or documentation cannot be obtained.

Shelter Allowance: This allowance is that portion of a welfare benefit (e.g., TANF) which the welfare agency designates to be used for rent and utilities.

Single Person: Someone living alone or intending to live alone who does not qualify as an elderly family, a person with disabilities, a displaced person, or the remaining member of a Resident family. (Public Housing: Handbook 7465.1 REV-2, 3-5)

Specified Welfare Benefit Reduction:

A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection wit the welfare program; or because of welfare

agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

1. at the expiration of a lifetime or other time limit on the payment of welfare benefits;
2. because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
3. because a family member has not complied with other welfare agency requirements.

Stalking: to follow, pursue, or repeatedly commit acts with the intent to kill, injure**,** harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person**.**

State Wage Information Collection Agency (SWICA): The State agency receiving quarterly wage reports from employers in the State or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information. (24 CFR 5.214)

Temporary Assistance to Needy Families (TANF): The program that replaced the Assistance to Families with Dependent Children (AFDC) that provides financial assistance to needy families who meet program eligibility criteria. Benefits are limited to a specified time period.

Resident: The person or family renting or occupying an assisted dwelling unit. (24 CFR 5.504(b)).

Resident Rent: The amount payable monthly by the family as rent to the housing authority. Where all utilities (except telephone) and other essential housing services are supplied by the housing authority or owner, Resident rent equals total Resident payment. Where some or all utilities (except telephone) and other essential housing services are supplied by the housing authority and the cost thereof is not included in the amount paid as rent, Resident rent equals total Resident payment less the utility allowance. (24 CFR 5.603(d))

Third-Party (verification): Written or oral confirmation of a family's income, expenses, or household composition provided by a source outside the household.

Total Resident Payment (TTP):

A. Total Resident payment for families whose initial lease is effective on or after August 1, 1982:

1. Total Resident payment is the amount calculated under Section 3(a)(1) of

the 1937 Act which is the higher of:

a. 30% of the family's monthly-adjusted income;
b. 10% of the family's monthly income; or
c. If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under section 3(a)(1) shall be the amount resulting from one application of the percentage.

2. Total Resident payment for families residing in public housing does not include charges for excess utility consumption or other miscellaneous charges.

B. Total Resident payment for families residing in public housing whose initial lease was effective before August 1, 1982: Paragraphs (b) and (c) of 24 CFR 913.107, as it existed immediately before November 18, 1996), will continue to govern the total Resident payment of families, under a public housing program, whose initial lease was effective before August 1, 1982.

Utility Allowance: If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the Resident rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made by a housing authority of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment. (24 CFR 5.603)

Utility Reimbursement: The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total Resident payment for the family occupying the unit. (24 CFR 5.603).

Very Low-Income Families: Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Welfare Assistance: Welfare or other payments to families or individuals, based on need, that are made under programs funded by Federal, State or local governments. (24 CFR 5.603(d))

Welfare Rent: In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

ATTACHMENT 22: (wa04122)

Public Housing No-Smoking Policy
For Whatcom County Housing Authority

After resident surveys, Health Department presentations and BWCHA/resident meetings are performed and to the extent the Whatcom County Housing Authority's Board of Commissioners deems appropriate and in conformance with HUD regulations, BWCHA intends to change its smoking policy as follows:

Current Policy
Smoking any product in any BWCHA common area or entryway, except outside of the premises and away from any entry or exit so that no other Resident, or his or her guest, or an employee, agent, guest of BWCHA is affected by the smoking is prohibited. Residents who smoke in their units must keep their doors closed to prevent smoke from entering the halls and common areas. No Resident or guest shall discard any smoking device or butts or burned tobacco in any location other than a trash receptacle located outside of any building and only then after such material has been fully extinguished.

Revised Policy effective October 2010
Smoking and the use of all other types of tobacco products are strictly prohibited on all BWCHA properties including but not limited to common areas or entryways, residential units, and all exterior areas of the grounds/property unless otherwise specified to be a designated smoking area. Residents who smoke or use other types of tobacco products must do so only in the designated smoking areas. Residents are responsible to notify their guests of the BWCHA Non-Smoking Policy and will be held responsible for their guests actions while on the property.

Violations will be handled as follows:

- Violation notices will be issued in accordance with the HUD approved lease as follows:
    - Verbal Warning – followed by smoking cessation materials
    - Warning Letter – followed by smoking cessation materials
        - 14 Day Notice to Comply or Quit - followed by smoking cessation materials
        - There may be occasion that a Resident receives more than one 14 Day Notice, depending on the situation and timeline of occurrences.
    - 30 Day Termination of Tenancy – With option to remedy
    - Eviction
    - Residents in violation will also be responsible for all costs associated with the removal of smoke odor or residue upon the violation.

BWCHA will work closely with the Resident Services Coordinator and the Health Department throughout the disciplinary process, referring those residents who would like extra assistance in finding services to both organizations as applicable.

BWCHA intends on making all of its properties non-smoking in the near future. All new construction projects will be non-smoking properties.