

**Appendix III**  
**SAMPLE ADMISSIONS AND**  
**CONTINUED OCCUPANCY POLICY**

**INTRODUCTION**

This sample Admissions and Continued Occupancy Policy refers to several *Procedures*. *Procedures* do not require approval of the Board, and provide the staff with practical information about how to implement this policy. PHAs modifying this sample ACOP for use will also need the following procedures:

- Opening and Closing the Waiting List
- Updating the Waiting List and Removing Applications
- Taking Applications and Initial Processing
- Verification
- Unit Offers and Applicant Placement
- Applicant Screening
- Informal Hearings for Rejected Applicants

Revising an ACOP requires approval of the Board of Commissioners/Directors, and may require an amendment to the PHA Plan.

Numerical notes in the text refer to the regulatory citations at the end of the document. Roman numeral notes in the text are footnotes.

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**Sample Admissions and Continued Occupancy Policy  
Governing HUD-Aided Public Housing**

**I. Nondiscrimination**

**A. Complying with Civil Rights Laws**

1. Civil rights laws protect the rights of applicants and residents to equal treatment by the Housing Authority in the way it carries out its programs. It is the policy of the Housing Authority (PHA) to comply with all Civil Rights laws, including but not limited to:

- *Title VI of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, religion, national origin or sex<sup>1</sup>;*
- *Title VIII of the Civil Rights Act of 1968 (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on disability and familial status, and spell out forms of prohibited discrimination<sup>2</sup>;*
- *Executive Order 11063,*
- *Section 504 of the Rehabilitation Act of 1973, which describes specific housing rights of persons with disabilities<sup>3</sup>;*
- *the Age Discrimination Act of 1975, which establishes certain rights of the elderly<sup>4</sup>*
- *Title II of the Americans with Disabilities Act of 1990 (ADA) requires that the PHA provide individuals with disabilities with access to its programs, services and activities including, common areas and public spaces. However, Title II does not require that individual housing units be accessible to individuals with disabilities; rather, Section 504 and the Fair Housing Act govern access for individuals with disabilities to the PHA's housing units.*
- *any applicable State laws or local ordinances, and*
- *any legislation protecting the individual rights of tenants, applicants or staff that may subsequently be enacted<sup>5</sup>.*

2. The PHA shall not discriminate because of race, color, national origin, sex, religion, familial status, or disability in the leasing, rental, occupancy, use, or other disposition of housing or related facilities, including land, that is part of a development under the PHA's jurisdiction covered by a public housing Annual Contributions Contract with HUD.

3. PHA shall not, on account of race, color, national origin, sex, religion, familial status, or disability:

- (a) Deny anyone the opportunity to apply for housing (when the waiting list is open), nor deny to any qualified applicant the opportunity to lease housing suitable to its needs;
- (b) Provide anyone housing that is different (of lower quality) from that provided others<sup>1</sup> ;
- (c) Subject anyone to segregation or disparate treatment;
- (d) Restrict anyone's access to any benefit enjoyed by others in connection with the housing program;

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<sup>1</sup> PHA is not only permitted but is required to provide persons with disabilities with housing that is appropriate for their needs. This accessible or adaptable housing, although different from that provided to others, is permitted because it permits persons with disabilities to participate in the public housing program.

- (e) Treat anyone differently in determining eligibility or other requirements for admission;
- (f) Deny anyone access to the same level of services<sup>ii</sup>; or
- (g) Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program.

4. PHA shall not automatically deny admission to otherwise qualified applicants because of their membership in some group to which negative behavior may be imputed (e.g., families with children born to unmarried parents or families whose head or spouse is a student). Instead, each applicant who is a member of a particular group will be treated as an individual based on his or her attributes and behavior<sup>6</sup>.

5. PHA will correct situations or procedures that create a barrier to equal housing opportunity for all. To permit people with disabilities to take full advantage of the PHA's housing program and non-housing programs, in accordance with Section 504, and the Fair Housing Amendments Act of 1988, there are requirements, optional actions and prohibitions:

- (a) PHA **must**, upon request by an applicant or resident with a disability,
  - make structural modifications to its housing and non-housing facilities<sup>7</sup> and
  - make reasonable accommodations in its procedures or practices<sup>8</sup>

**unless** such structural modifications or reasonable accommodations

  - would result in an undue financial<sup>iii</sup> and administrative burden on the Authority<sup>9</sup>, or
  - would result in a fundamental alteration in the nature of the program
- (b) In making structural modifications to "Existing housing programs"<sup>10</sup> or in carrying out "Other Alterations"<sup>11</sup> for otherwise qualified persons with disabilities, PHA **may**, but is not required to:
  - Make each of its existing facilities accessible<sup>12</sup>; or
  - make structural alterations when other methods can be demonstrated to achieve the same effect<sup>13</sup>;
  - Make structural alterations that require the removal or altering of a load-bearing structural member<sup>14</sup>;
  - Provide an elevator in any multifamily housing project solely for the purpose of locating accessible units above or below the grade level<sup>15</sup>;
- (c) When the PHA is making "Substantial Alterations"<sup>iv</sup> to an existing housing facility PHA **may**, but is not required to:
  - Provide an elevator in any multifamily housing project solely for the purpose of locating accessible units above or below the grade level<sup>16</sup>;
  - Make structural alterations that require the removal or altering of a load-bearing structural member<sup>17</sup>; or
  - Make structural alterations to meet minimum accessibility requirements where it is

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<sup>ii</sup> This requirement applies to services provided by PHA and services provided by others with PHA's permission on public housing property. Thus, a health screening program offered by the local health department in a public housing community room would have to be fully accessible to persons with disabilities.

<sup>iii</sup> Considering all the PHA's sources of revenue, including both operating and capital funds

<sup>iv</sup> Defined in 24 CFR § 8.23 as Comprehensive Modernization or work in developments with 15+ units, work whose value exceeds 75% of the replacement cost of the facility.

structurally impracticable<sup>v</sup> also.<sup>18</sup>

Note that the undue burdens test is not applicable to housing undergoing substantial alteration.

6. PHA will not permit these policies to be subverted to do personal or political favors. PHA will not offer units in an order different from that prescribed by this policy, since doing so violates the policy, federal law, and the civil rights of the other families on the waiting list<sup>19</sup>.

#### **B. Making Programs and Facilities Accessible to People with Disabilities**

1. Facilities and programs used by residents will be accessible to a person in a wheelchair. Application and management offices, hearing rooms, community centers, day care centers, laundry facilities, craft and game rooms, etc. (to the extent that the PHA has such facilities) will be usable by residents with a full range of disabilities. To the extent that the PHA offers such facilities, if none is already accessible, some<sup>vi</sup> will be made so, subject to the undue financial and administrative burden test<sup>20</sup>.

2. Documents used by applicants and residents will be accessible for those with vision or hearing impairments<sup>21</sup>. Also, all documents will be written simply and clearly to enable applicants with learning or cognitive disabilities to understand as much as possible. Unless prohibited by local law, documents may be translated into languages other than English<sup>vii</sup>.

3. PHA will present examples to help applicants and residents understand eligibility, rent computation, applicant screening, reasonable accommodations, and lease compliance. In writing materials for applicants and residents, PHA staff will be prepared to explain rules and benefits verbally, as often as may be needed, because some disabilities may affect an applicant's ability to read or understand<sup>22</sup>.

4. When PHA has initial contact with the applicant, PHA staff will ask whether the applicant requires an alternate form of communication. Examples of alternative forms of communication might include, but are not limited to: a qualified sign language interpreter provided for and paid for by the PHA; having written materials explained orally by staff either in person or by telephone; provision of written materials in large/bold font; information on audiocassette; permitting applicants to file applications by mail; and, permitting alternative sites for the receipt of applications.<sup>23</sup> In addition, the PHA's obligation to provide alternative forms of communication to persons with disabilities does not preclude an individual's right to have a friend, relative or advocate accompany him/her for purposes of conducting business with the PHA.

5. Some applicants will not be able to read (or to read English), so intake staff must be prepared to read and explain anything that they would normally hand to an applicant to be read or filled out. Applicants who read or understand little English may furnish an interpreter who can explain what is going on. PHA is not required to pay the costs associated with having a foreign language interpreter (as they are for a

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<sup>v</sup> Structural impracticability is defined as: Changes having little likelihood of being accomplished without removing or altering a load-bearing structural member and/or incurring an increased cost of 50% or more of the value of the element of the building or facility involved.

<sup>vi</sup> It is not required that all public and common areas be made accessible so long as persons with disabilities have full access to all the types of facilities and activities available to persons without disabilities. Thus, not all laundry facilities need to be accessible so long as there are sufficient accessible laundry facilities for use by persons with disabilities at each development that provides laundry facilities.

<sup>vii</sup> 24 CFR § 5.505 requires that any notice or document relative to citizen or eligible immigration status, where feasible, be provided to an applicant or tenant in a language that is understood by the individual if the individual is not proficient in English. In general, documents will be translated when there are sufficient numbers of applicants or residents speaking a language to warrant the expense.

sign language interpreters for the hearing impaired<sup>24</sup> because the Fair Housing law makes no such requirement).

6. At a minimum, PHA will prepare information to be used by applicants and residents in plain-language accessible formats.

## **II. Eligibility for Admission and Processing of Applications**

### **A. Affirmative Marketing**

1. PHA will conduct affirmative marketing as needed so the waiting list includes a mix of applicants with races, ethnic backgrounds, ages and disabilities proportionate to the mix of those groups in the eligible population of the area. The marketing plan will take into consideration the number and distribution of vacant units, units that can be expected to become vacant because of move-outs, and characteristics of families on the waiting list. PHA will review these factors regularly to determine the need for and scope of marketing efforts. All marketing efforts will include outreach to those least likely to apply<sup>25</sup>.

2. Marketing and informational materials will:

- (a) Comply with Fair Housing Act requirements on wording, logo, size of type, etc.;
- (b) Describe the housing units, application process, waiting list and preference structure accurately;
- (c) Use clear and easy to understand terms and more than strictly English-language print media;
- (d) Contact agencies that serve potentially qualified applicants least likely to apply (e.g. the disabled) to ensure that accessible/adaptable units are offered to applicants who need their features;
- (e) Make clear who is eligible: low income individuals and families; working and non-working people; and people with both physical and mental disabilities; and
- (f) Be clear about PHA's responsibility to provide reasonable accommodations to people with disabilities.

### **B. Qualifying for Admission**

1. It is PHA's policy to admit **only** qualified applicants<sup>viii</sup>.

2. An applicant is qualified if he or she meets all of the following criteria:

- (a) Is a family, as defined in Section XII of this policy;
- (b) Meets HUD requirements on citizenship or immigration status<sup>26</sup>;
- (c) Has an Annual Income (as defined in Section XI of this document) at the time of admission that does not exceed the income limits (maximum incomes by family size established by HUD) posted in PHA offices.
- (d) Provides documentation of Social Security numbers for family members age 6 or older,

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<sup>viii</sup> The term "qualified" refers to applicants who are eligible and able to meet the applicant selection standards. This term is taken from the 504 regs: **24 CFR § 8.3** Definition of qualified individual with a disability. In order to be eligible, a family must meet four tests: (1) they must meet PHA's definition of family; (2) have an Annual Income at or below program guidelines; (3) each family member, age 6 or older, must provide a social security number or certify that he/she has no number; and (4) each family member receiving assistance must be a citizen or non-citizen with eligible immigration status per **24 CFR § 5.500**.

or certifies that they do not have Social Security numbers<sup>27</sup>; and

- (e) Meets the Applicant Selection Criteria in Section II. F. of these policies<sup>28</sup>, including completing a PHA-approved pre-occupancy orientation session if requested;

### C. Establishing and Maintaining the Waiting List

1. It is the policy of PHA to administer its waiting list as required by HUD's regulations

2. Opening and Closing Waiting Lists

- (a) For any unit size or type, if the PHA's waiting list has sufficient applications to fill anticipated vacancies for the coming 12 months, PHA may elect to: (a) close the waiting list completely; (b) close the list during certain times of the year; or (c) restrict intake by preference, type of project, or by size and type of dwelling<sup>29</sup>.
- (b) A decision to close the waiting list will consider the number of applications for each size and type of unit, the number of applicants who qualify for a preference, and the ability of PHA to house applicants in twelve to eighteen months. Decisions to close waiting lists, restrict intake, or open waiting lists will be publicly announced.
- (c) When the waiting list is closed, PHA will not maintain a list of individuals who wish to be notified when the waiting list is re-opened.

3. Determining if the Waiting List may be Closed

PHA will use its **Procedure on Opening and Closing the Waiting List**<sup>ix</sup> to determine whether the waiting list(s) should be closed.

4. Updating the Waiting List

- (a) Once each year PHA will update each waiting list sublist by contacting all applicants in writing<sup>x</sup>.

If, after two attempts in writing<sup>xi</sup>, no response is received, PHA will withdraw the name of an applicant from the waiting list.

At the time of initial intake, PHA will advise families that they must notify the PHA when their circumstances, mailing address or phone numbers change.

- (b) PHA will remove an applicant's name from the waiting list only in accordance with its **Procedure on Updating the Waiting List and Removing Applications**.

5. Change in Preference Status While on the Waiting List

- (a) Situations of some families who did not qualify for a local or ranking preference when they applied may change so they are qualified for a preference. The family should contact PHA so their status may be recertified or reverified. Applicants whose preference status changes while they are on the waiting list retain their original date and time of application, or application number, as applicable.
- (b) If PHA determines that the family does now qualify for a preference, they will be moved up on the waiting list in accordance with their preference(s) and their date and time of application. They will then be informed in writing of how the change in status has

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<sup>ix</sup> This policy refers to written procedures that cover, in this case, the closing of the waiting list. References to other administrative procedures is made periodically in the text of this policy. These procedures are separate documents that describe the work steps necessary to implement the policy made in this document.

<sup>x</sup> Or by the method designated at initial application by applicants with disabilities.

<sup>xi</sup> Both written communications will be sent by first class mail.



affected their place on the waiting list.

#### **D. Processing Applications for Admission**

1. PHA will accept and process applications in accordance with applicable HUD Regulations and PHA's **Procedure on Taking Applications and Initial Processing**. PHA will assume that the facts certified to by the applicant in the preliminary application are correct, although all those facts will be verified later in the application process.

#### 2. Interviews and Verification Process

As applicants approach the top of the waiting list, they will be contacted and asked to come to the PHA for an interview to complete their applicant file. Applicants who fail to attend their scheduled interview or who cannot be contacted to schedule an interview will have their applications withdrawn, subject to reasonable accommodations for people with disabilities.

(a) The following items will be verified according to PHA's **Procedure on Verification**, to determine qualification for admission to PHA's housing:

(i) Family composition and type (Elderly/Disabled/near elderly /non-elderly);

(ii) Annual Income;

(iii) Assets and Asset Income;

(iv) Deductions from Income;

(v) Preferences;

(vi) Social Security Numbers of all Family Members;

(vii) Applicant Screening Information; and

(viii) Citizenship or eligible immigration status.

(b) Third party written verification is the required form of documentation to substantiate applicant or resident claims. If attempts to obtain third party written verification are unsuccessful, PHA may also use (1) phone verifications with the results recorded in the file, dated, and signed by PHA staff, (2) review of documents, and, if no other form of verification is available, (3) applicant certification. Applicants must cooperate fully in obtaining or providing the necessary verifications.

(c) Verification of eligible immigration status shall be carried out pursuant to **24 CFR § 5.5**. Citizens are permitted to certify to their status.

3. Applicants reporting zero income will be asked to complete a family expense form to document how much they spend on: food, transportation, health care, child care, debts, household items, etc. and what the source of income is for these expenses.

4. PHA's applications for admission public housing shall indicate for each application the date and time of receipt; applicant's race and ethnicity; determination by PHA as to eligibility of the applicant; when eligible, the unit size(s) for which eligible; preference, if any; and the date, location, identification, and circumstances of each vacancy offered and accepted or rejected<sup>30</sup>.

#### **E. The Preference System**

1. An admission preference does not guarantee admission. Preferences establish the order of placement on the waiting list. Every applicant must still meet PHA's Selection Criteria before being offered a unit.

2. Factors other than preferences that affect the selection of applicants from the waiting list<sup>31</sup>

Before applying its preference system, PHA will match the characteristics of the available unit to the

applicants available on the waiting list. Unit size, accessibility features, or type of project limit the admission of families to households whose characteristics “match” the vacant unit available.

By matching unit and family characteristics, families lower on the waiting list may receive an offer of housing before families with an earlier date and time of application or families with a higher preferences (e.g. the next unit available is an accessible unit and the only applicant family needing such features is in the non-preference pool, i.e. having no preference).

Factors other than the preference system that affect applicant selection are described below:

- (a) When selecting a family for a unit with **accessible features**, PHA will give a preference to families that include persons with disabilities who can benefit from the unit’s features. First preference will be given to existing tenant families seeking a transfer and second preference will be given to applicant families.

If no family needing accessible features can be found for a unit with such features, PHA will house a family not needing the unit features, but a non-disabled family in an accessible unit will be required to move so that a family needing the unit features can take advantage of the unit.

- (b) When selecting a family for a unit in housing designated for elderly families, or disabled families, if any, PHA will give a priority to elderly, disabled or near elderly families.
- (c) When selecting a family for a unit in a property that houses elderly and disabled families, as opposed to a general occupancy development that houses non-elderly families as well, PHA will give equal priority to elderly families and disabled families.
- (d) When selecting a single person at a Mixed Population development, elderly, disabled or displaced single persons have priority over other singles. Single applicants who are not elderly, disabled or displaced can only be admitted after all elderly or disabled families or single displaced persons have been offered units.

Preferences will be granted to applicants who are otherwise qualified and who, at the time of the unit offer (prior to execution of a lease), meet the definitions of the preferences described below.

### 3. Local Preference

There is one local preference in effect based on ranges of income. Applicants will be grouped as follows:

- **Tier I:** Families with incomes between 0% and 30% of area median income (this group **must** constitute at least 40% of all admissions in any year);
- **Tier II:** Families with incomes between 31% and 80% of area median income (the target for this group is 60% of all admissions in any year).

### 4. Ranking Preference

5. There are two possible ranking preferences in effect: first is the **Displacement Preference**, and second is the **Upward Mobility Preference**. **PHA’s Procedure on Unit Offers and Applicant Placement** will be used to order the Waiting List and make unit offers.

Families that qualify for neither the Displacement nor the Upward Mobility preferences will be categorized as No-preference families.

### 6. Mixed Population Buildings Local Preference

In addition to the Income Tier preference, which applies to all PHA’s developments, PHA elects to retain the former Federal priority for single persons who are elderly, persons with disabilities, or persons displaced by governmental action over all other single persons when filling vacancies in its Mixed

Population buildings.

## 7. Method of Applying Preferences

To ensure that PHA admits the statutorily required 40% of applicants per year with incomes in Tier I and, at the same time, does not create concentrations of families by income at any of its properties, PHA will rank applicants within both income tiers, in order, as Displacement, Upward Mobility or no-preference. Four out of every ten applicants admitted will be from Tier I. Within each of the ranking preference categories, offers will be made by oldest application<sup>32</sup>.

- (a) PHA will house applicants from Tiers I and II on the waiting list by selecting first from the Displacement applicants, then from Upward Mobility applicants within each Tier, and then, if the Upward Mobility applications are exhausted, by selecting from the No-preference applicants within each Tier.
- (b) PHA will also offer units to existing residents on the transfer list. Some types of transfers are processed before new admissions and some types of transfers are processed with new admissions, using a ratio set forth in the Tenant Selection and Assignment Plan (TSAP). Transfers do not count toward the 40% Tier I requirement.
- (c) PHA will not hold units vacant for applicants with preferences, nor will it relax eligibility or screening criteria to admit otherwise unqualified applicants with preferences.

## 7. Definition of Displacement and Upward Mobility Preference

PHA defines Displacement Preference to include applicants who can document that they have been displaced by a natural disaster declared by the President of the United States, displaced, through no fault of their own, by governmental action, or displaced by domestic violence. These sub-categories are equal.

PHA defines Upward Mobility to include applicants with adult members who can document that they are employed or involved in job training, including job training undertaken as a requirement of persons receiving Temporary Assistance to Needy Families. Persons who cannot work because of age or disability also qualify for this ranking preference. These subcategories are equal.

## 8. Designated Housing

The preference system will be used to match the characteristics of the family to the type of unit available, including developments with HUD-approved designated populations. The ability to provide preferences for some family types will depend on unit size available.

- (a) Projects designated for the elderly:<sup>xii</sup> Elderly families will receive a priority for admission to units or buildings covered by a HUD-approved Designation Plan. When there are insufficient elderly families, near-elderly families will receive a priority for this type of unit. Only elderly and near-elderly can live in designated elderly buildings, and near-elderly can only live there if the designated plan specifies that they can. No other type of family is eligible for admission to a designated elderly building.
- (b) Projects designated for disabled families:<sup>xiii</sup> Disabled families will receive a priority for admission to units or buildings covered by a HUD-approved Designation Plan.

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<sup>xii</sup> Buildings or portions of buildings designated by following HUD's requirements. Designation of housing for the elderly requires a designated housing plan presented to HUD for approval.

<sup>xiii</sup> Buildings, floors and units can also be designated for disabled families, also by following the HUD requirements.

- (c) Mixed population Projects:<sup>xiv</sup> Elderly families, disabled families will receive equal priority for admission to such units and all such will receive offers before single people who are not elderly, disabled or displaced.
- (d) **General Occupancy Projects:** The priority for elderly and disabled families and displaced persons over single persons does not apply at General Occupancy Properties.

#### 9. Administration of the Preferences

- (a) Depending on the time an applicant may have to remain on the waiting list, PHA will either verify preferences at the time of application (when the waiting list is short or non-existent) or require that applicants certify to their qualification for a preference at the time of pre-application (when the wait for admission exceeds four months). Verifying preferences is one of the earliest steps in processing applicants for admission. Preference verifications shall be no more than 120 days old at the time of certification.
- (b) PHA may use a pre-application to obtain the family's certification that it qualifies for a preference. The family will be advised to notify PHA of any change that may affect their ability to qualify for a preference.
- (c) Applicants that are otherwise eligible and self-certified as qualifying for a preference will be placed on the waiting list in the appropriate applicant pool.
- (d) Applicants that self-certify to a preference at the time of pre-application and cannot verify current preference status at the time of certification will be moved into the No-preference category, and to a lower position on the waiting list based on date and time of application.

#### 10. Notice and Opportunity for a Meeting<sup>33</sup>

If an applicant claims but does not qualify for a preference, the applicant can request a meeting:

- (a) PHA will provide a notice that an applicant does not qualify for a preference containing a brief statement of the reasons for the determination, and that the applicant has may meet with PHA's designee to review the determination.
- (b) If the applicant requests the meeting, PHA will designate someone to conduct the meeting. This can be the person who made the initial determination or reviewed the determination of his or her subordinate, or any other person chosen by the PHA. A written summary of this meeting shall be made and retained in the applicant's file.
- (c) The applicant will be advised that he/she may exercise other rights if the applicant believes that illegal discrimination, based on race, color, national origin, religion, age, disability, or familial status has contributed to the PHA's decision to deny the preference.

#### **F. Screening Applicants for Admission**

1. All applicants shall be screened in accordance with HUD's regulations<sup>34</sup> and sound management practices. During screening, PHA will require applicants to demonstrate ability to comply with essential provisions of the lease as summarized below:

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

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<sup>xiv</sup> A mixed population project is a property, formerly known as an "elderly project", that was reserved for elderly and disabled families at its inception or for which PHA obtained HUD approval to designate the property for elderly and disabled families.

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

2. How PHA will check ability to comply with essential lease requirements:

- (a) Applicant ability and willingness to comply with the essential lease requirements will be checked and documented in accordance with PHA's **Procedure on Applicant Screening**. Applicant screening shall assess the conduct of the applicant and other family members listed on the application, in present and prior housing. Any costs incurred to complete the application process and screening will be paid by the PHA.
- (b) The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected **not to**:
  - (i) Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare<sup>35</sup>;
  - (ii) Adversely affect the physical environment or financial stability of the project<sup>36</sup>;
  - (iii) Violate the terms and conditions of the lease<sup>37</sup>;
  - (iv) Require services from PHA staff that would alter the fundamental nature of PHA's program<sup>38</sup>.
- (c) PHA will conduct a detailed interview of all applicants using an interview checklist as a part of the screening procedures. The form will ask questions based on the essential elements of tenancy. Answers will be subject to third party verification<sup>39</sup>.
- (d) PHA will complete a credit check and a rental history check on all applicants.
- (e) Payment of funds owed to PHA or any other housing authority is part of the screening evaluation. PHA will reject an applicant for unpaid balances owed PHA by the applicant for any program that PHA operates<sup>40</sup>.
- (f) PHA will complete a criminal background check on all adult applicants or any member for whom criminal records are available. Before the PHA rejects an applicant on the basis of criminal history, the PHA must notify the household of the proposed rejection and provide the household member whose criminal history is at issue with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record<sup>41</sup>.
- (g) If any screening activity suggests that an applicant household member may be currently engaged in illegal use of drugs, the PHA shall seek information from a drug abuse treatment facility to determine whether the facility has reasonable cause to believe the household member is currently engaging in illegal drug use.
- (h) PHA will complete a home visit on all applicants that have passed criminal history screening and have incomplete or questionable landlord references to determine if the

applicant's housekeeping would create health or sanitation problems. Staff completing the home visit will consider whether the conditions they observe are the result of the applicant's treatment of the unit or are caused by the unit's overall substandard condition.

- (i) Housekeeping criteria to be checked shall include, but not be limited to:
- Conditions in living room, kitchen (food preparation and clean-up), bathroom, bedrooms, entrance-ways, halls, and yard (if applicable);
  - Cleanliness in each room; and
  - General care of appliances, fixtures, windows, doors and cabinets.
- Other PHA lease compliance criteria will also be checked, such as:
- Evidence of destruction of property;
  - Unauthorized occupants;
  - Evidence of criminal activity; and
  - Conditions inconsistent with application information.
- All applicants shall have at least two days' advance written notice of Home Visits.
- (j) All applicants may be asked to attend and complete PHA's Pre-Occupancy Orientation.
- (k) PHA's examination of relevant information respecting past and current habits or practices will include, but is not limited to, an assessment of the applicant's adult family members':
- Past performance in meeting financial obligations, especially rent and utility bills <sup>42</sup>.
  - Record of disturbance of neighbors (sufficient to warrant a police call) destruction of property, or living or housekeeping habits that may adversely affect the health, safety, or welfare of other tenants or neighbors <sup>43</sup>.
  - History of criminal activity on the part of any applicant family member involving crimes of physical violence to persons or property or other criminal acts including drug-related criminal activity that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or development <sup>44</sup>.
    - PHA may require an applicant to exclude a household member in order to be admitted if that household member has participated in or been culpable for criminal actions that warrant rejection;
    - PHA may, if a statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.
  - A record of eviction from housing or involuntary termination from residential programs (taking into account date and circumstances).
  - An applicant's ability and willingness to comply with the terms of PHA's lease <sup>45</sup>.
- (l) The PHA is **required** to reject the applications of certain applicants for criminal activity or drug abuse by household members:
- The PHA shall reject the application of any applicant for three years from the date of eviction if any household member has been evicted from any federally assisted housing for drug-related criminal activity. However, the PHA may admit the household if the PHA determines that <sup>46</sup>:

- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA, or
- The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).
- The PHA is required to reject the application of a household if the PHA determines that:
  - Any household member is currently engaging in illegal use of a drug<sup>xv</sup>; or
  - The PHA has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or
  - Any household member has ever been convicted of manufacture or production of methamphetamine on the premises of any federally assisted housing; or
  - Any member of the household is subject to a lifetime registration requirement under a State sex offender registration program; or
  - Any member of the household's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents<sup>xvi</sup>.
- (m) An applicant's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition or rent will result in rejection. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.
- (n) Applicants must be able to demonstrate the ability and willingness to comply with the terms of PHA's lease, either alone or with assistance that they can demonstrate they will have at the time of admission.<sup>xvii</sup> Availability of assistance is subject to verification by PHA<sup>47</sup>.

### 3. Screening applicants who claim mitigating circumstances

- (a) If negative information is received about an applicant, PHA shall consider the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. To be considered, mitigating circumstances must be verifiable<sup>48</sup>.
- (b) Mitigating circumstances<sup>xviii</sup> are facts relating to the applicant's negative rental history or

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<sup>xv</sup> For purposes of this section a household member is "currently engaged in" the criminal activity if the person has engaged in the behavior recently enough to justify a belief that the behavior is current

<sup>xvi</sup> PHA must be able to show a relationship between the applicant household member's abuse of alcohol and behavior that threatens the health, safety, or right to peaceful enjoyment of other residents.

<sup>xvii</sup> Applicants whose landlord, financial, criminal and other references demonstrate that they are already willing and able to comply with lease terms in their existing housing will be considered to have met this criterion, whether or not they are disabled. Applicants whose housing situations make it difficult for PHA to determine whether or not they are able and willing to comply with lease terms (e.g. because they are homeless, are living with friends or relatives, or have other non-traditional housing circumstances) will have to demonstrate ability and willingness to comply with lease terms whether or not they are disabled.

<sup>xviii</sup> The discussion of mitigating circumstance in this paragraph is applicable to all applicants. PHA is required by regulation to consider mitigating circumstance, see 24 CFR § 960.203 (d) (1).

behavior, that, when verified, indicate: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, **AND** applicant's prospect for lease compliance is an acceptable one, justifying admission. Mitigating circumstances would overcome or outweigh information already gathered in the screening process.

- (c) If the applicant asserts that mitigating circumstances relate to a change in disability, medical condition or treatment, PHA shall refer such information to persons qualified to evaluate the evidence and verify the mitigating circumstance. PHA shall also have the right to request further information to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.
- (d) Examples of mitigating circumstances might include <sup>49</sup>:
  - (i) Evidence of successful rehabilitation;
  - (ii) Evidence of the applicant family's participation in social service or other appropriate counseling service; or
  - (iii) Evidence of successful and sustained modification of previous disqualifying behavior.
- (e) Consideration of mitigating circumstances does not guarantee that applicant will qualify for admission. PHA will consider such circumstances in light of:
  - (i) the applicant's ability to verify the mitigating circumstances and prospects for improved future behavior;
  - (ii) the applicant's overall performance with respect to all the screening requirements; and
  - (iii) the nature and seriousness of any criminal activity, especially drug related criminal activity that appears in the applicant's record.

#### 4. Qualified and Unqualified Applicants

- (a) Verified information will be analyzed and a determination made with respect to:
  - (i) Eligibility of the applicant as a family <sup>50</sup>;
  - (ii) Eligibility of the applicant with respect to income limits for admission <sup>51</sup>;
  - (iii) Eligibility of the applicant with respect to citizenship or eligible immigration status <sup>52</sup>;
  - (iv) Unit size required for and selected by the family;
  - (v) Preference category (if any) to which the family is entitled <sup>53</sup>; and
  - (vi) Qualification of the applicant with respect to the Selection Criteria <sup>54</sup>.
- (b) Qualified families will be notified by PHA of the approximate date of admission insofar as that date can be determined <sup>55</sup>, however the date stated by PHA is an estimate and does not guarantee that applicants can expect to be housed by that date.
- (c) Unqualified applicants will be promptly notified by a Notice of Rejection from PHA, stating the basis for such determination and offering an opportunity for informal hearing ( see **Procedure for Informal Hearing for Rejected Applicants**). Informal hearings for applicants are different from the resident grievance process. Applicants are not entitled to



use of the resident grievance process <sup>56</sup>.

- (d) Applicants known to have a disability that are eligible but fail to meet the Selection Criteria, will be offered an opportunity for a second meeting to determine whether mitigating circumstances or reasonable accommodations will make it possible for them to be housed in accordance with the Screening Procedures.

### G. Occupancy Guidelines

1. Units shall be occupied by families of the appropriate size. This policy maintains the usefulness of the units, while preserving them from excessive wear and tear and under-utilization.

#### Minimum and Maximum-Number-of-Persons-Per Unit Standard

<u>Number of Bedrooms</u>	<u>Min Persons/Unit</u> <u>(Largest Unit Size)</u>	<u>Max Persons/Unit</u> <u>(Smallest Unit Size)</u>
0BR	1	1
1BR	1	2
2BR	2	4
3BR	3	6
4BR	4	8
5BR	5	10

The following principles govern the size of unit for which a family will qualify. Generally, two people are expected to share each bedroom, except that units will be so assigned that:

- (a) It will not be necessary for persons of different generations or opposite sex, other than husband and wife, to occupy the same bedroom, although they may do so at the request of the family.
  - (b) Exceptions to the largest permissible unit size may be made in case of reasonable accommodations for a person with disabilities.
  - (c) Two children of the opposite sex will not be required to share a bedroom, although they may do so at the request of the family.
  - (d) An unborn child will not be counted as a person in determining unit size. A single pregnant woman may be assigned to a one bedroom unit. In determining unit size,
  - (e) PHA will count a child who is temporarily away from the home because the child has been placed in foster care, kinship care, or is away at school.
  - (f) A single head of household parent shall not be required to share a bedroom with his/her child, although they may do so at the request of the family.
  - (g) A live-in attendant may be assigned a bedroom. Single elderly or disabled residents with live-in attendants will be assigned one or two bedroom units.
  - (h) Efficiency apartments will be occupied first by persons who prefer efficiencies to 1 BR units. Once applicants who prefer efficiencies have been housed, single individuals applying to Mixed Population buildings who wish to live in 1 Bedroom units (rather than efficiencies) will participate in a lottery to determine whether they will be offered a 1 BR or an efficiency.
2. The Local Housing Code of two persons per bedroom will be the standard for the smallest unit a

family may be offered. Individual housing units with very small or very large bedrooms or other specific situations that inhibit or encourage lower or higher levels of occupancy may be permitted to establish lower or higher occupancy levels so long as the occupancy levels will not discriminate on the basis of familial status.

3. The largest unit size that a family may be offered would provide no more than one bedroom per family member, taking into account family size and composition.
4. When a family applies for housing and when the waiting list is updated, some families will qualify for more than one unit size. These applicants will choose the waiting sublist where they wish to receive a unit offer. Based on the family's choice, they will be placed on the appropriate waiting sublist by unit size.
5. If a family opts for a smaller unit size than would normally be assigned under the largest unit size standard (because, for example, the list is moving faster), the family will be required to sign a statement agreeing to occupy the unit assigned at their request until their family size or circumstances change.
6. When a family is actually offered a unit, if they no longer qualify for the unit size where they were sublisted, they will be moved to the appropriate sublist, retaining their preferences and date and time of application. This may mean that they may have to wait longer for a unit offer.
7. The PHA shall change the family's sublist at any time while the family is on the waiting list at the family's request.

### **III. Tenant Selection and Assignment Plan**

#### **A. Organizing the Waiting List**

##### 1. Community-wide Waiting List

It is PHA's policy that each applicant shall be assigned his/her appropriate place on a single community-wide waiting list in sequence based upon:

- type and size of unit needed and selected by the family (e.g. general occupancy building, accessible or non-accessible unit, number of bedrooms);
- applicant preference or priority, if any; and
- date and time the application is received.

PHA will maintain its waiting list in the form of a that records the type and size of unit needed, each applicant's priority/preference status, the date and time of application, and the race and ethnicity of the family head.

##### 2. Site-based Waiting List

If the PHA elects to operate Site-based Waiting Lists, the application for such lists shall be a part of the PHA's Annual Plan.

- All current applicants for units of the size and type offered at developments with Site-based Waiting Lists will be given an opportunity to list up to three developments where they would accept a unit offer or to opt for the "first available" unit offer.
- Thereafter, new applicants would have the same opportunity to select up to three developments or "first available" unit offer.
- Once the initial site based lists are established, all applicants will be informed of the length of each list and have an opportunity when their application is updated to change their site selection.
- Although applicants will have an opportunity to select the sites where they wish to receive offers, the waiting list and unit offers will continue to be administered centrally.

## **B. Making Unit Offers to Applicants**

1. To assure equal opportunity and nondiscrimination on grounds of race, color, sex, religion, national origin, disability or familial status is PLAN “A” will be used to make unit offers.

- The first qualified applicant in sequence on the waiting list is made one offer of a unit of appropriate size and type.
- The applicant must accept the vacancy offered or be dropped from the waiting list.
- Applicants who are removed from the waiting list because they refuse unit offers without good cause may not reapply for housing for 12 months.

2. PHA will first match the unit available to the highest ranking applicant for a unit of that size, type and special features (if any), taking into account any designated housing (if applicable). Preferences will then be used to determine the order of selection from the waiting list. If two applicants need the same type and size of unit and have the same preference status, the applicant with the earlier date and time of application or lower application number will receive the earliest offer.

3. In the selection of a family for a unit with accessible features, PHA will give preference to families that include a person with disabilities who can benefit from the unit features.

4. Local and ranking preferences will be a factor in most admissions, although there may be instances (e.g. a unit with accessible features is ready and no applicant in the targeted preference group needs the features) when the PHA will make an offer to an applicant who does not qualify for a ranking preference. Certain types of transfers will also be processed with new admissions. See Section F. for the ratio of transfers to new admissions.

5. The applicant must accept the vacancy offered within 5 working days of the date the offer is communicated (by phone, mail, or the method of communication designated by an applicant with disabilities) or be removed from the waiting list. All offers made over the phone will be confirmed by letter. If unable to contact an applicant by phone or first class mail, PHA will send a certified letter, return receipt requested.

6. If more than one unit of the appropriate size and type is available, the first unit to be offered will be the unit that is or will be ready for move-in first. “Ready for move-in” means the unit has no Housing Quality Standard deficiencies and is broom clean. If two units are ready for move-in on the same day, the first unit to be offered will be the unit that became vacant first.

## **C. Removing Applicant Names from the Waiting List**

To ensure vacant units are filled in a timely manner, PHA needs a waiting list that is accurate. While each applicant must keep PHA apprised of changes in address, phone number, income or other circumstances, no applicant shall be removed from the waiting list except when one of the following situations occurs:

1. The applicant receives and accepts an offer of housing;
2. The applicant requests that his/her name be removed from the waiting list;
3. The applicant is rejected, either because he/she is ineligible for public housing at the time of certification, or because he/she fails to meet the applicant selection criteria<sup>xix</sup>; or
4. The application is withdrawn because the PHA attempted to contact the applicant and was unable to

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<sup>xix</sup> All rejected applicants are entitled to a complete explanation of the reason for their rejection and an informal hearing at which they may present reasons why they should not be rejected. See the Procedure on Informal Hearings for Rejected Applicants.

do so. In attempting to contact to contact an applicant, the following methods shall be undertaken before an application may be withdrawn:

- The applicant will be sent a letter by first class mail to the applicant’s last known address, asking the applicant to contact PHA<sup>xx</sup> either by returning the update postcard or in person, bringing proof of identity;
  - When five working days have elapsed from the date when the PHA mails the letter, if there is no response from the applicant, the applicant will be sent the same letter by Certified Mail, return receipt requested;
  - If an applicant contacts PHA as required within any of the deadlines stated above, he/she shall be reinstated at the former waiting list position;
  - When PHA is unable to contact an applicant by first class mail to schedule a meeting, or interview or to make an offer, PHA shall suspend processing of that application until the applicant is either withdrawn (no contact by the applicant) or reinstated (contact by the applicant within the stated deadlines). While an application is suspended, applicants next in sequence will be processed.
5. Persons who fail to respond to PHA attempts to contact them because of verified situations related to a disability shall be entitled to reasonable accommodation. In such circumstances PHA shall reinstate these individuals to their former waiting list positions.
6. Families whose applications are withdrawn or rejected must reapply for housing when the waiting list is open. Families whose applications were withdrawn may not reapply for 12 months.

#### **D. Good Cause for Applicant Refusal of Unit Offer**

If an applicant is willing to accept the unit offered but is unable to move at the time of the offer and presents clear evidence (“good cause”) that acceptance of the offer of a suitable vacancy will result in undue hardship not related to considerations of race, color, sex, religion or national origin, the applicant will not be dropped to the bottom of the list.

1. Examples of “good cause” for refusal of an offer of housing are:
- The unit is not ready for move-in at the time of the offer of housing. “Ready for move-in” means the unit has no Housing Quality Standard deficiencies and is broom clean. If an applicant refuses a unit because it is not ready for move-in, the applicant will be offered the next unit that **is** ready for move-in;
  - Inaccessibility to source of employment, education, or job training, children’s day care, or educational program for children with disabilities<sup>xxi</sup>, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities;
  - The family demonstrates that accepting the offer will place a family member’s life, health or safety in jeopardy. The family must provide specific and compelling documentation such as restraining orders, other court orders, or risk assessments from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption;
  - A health professional verifies temporary hospitalization or recovery from illness of the principal

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<sup>xx</sup> Except that PHA shall contact persons with disabilities according to the methods such individuals have previously designated. Such methods of contact could include verbal or in-person contact or contacting relatives, friends or advocates rather than the person with disabilities.

<sup>xxi</sup> If the applicant has a child participating in such a program.

household member, other household members (each as listed on final application) or live-in aide necessary to the care of the principal household member;

- The unit has lead paint and the family has children under the age of seven;
  - 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;
  - An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing; or
  - The PHA has HUD-approved site-based waiting lists and the offer is not for one of the sites the applicant has selected.
2. If good cause is verified, the refusal of the offer shall not require that the applicant be dropped to the bottom of the waiting list or otherwise affect the family's position on the waiting list.
  3. PHA will maintain a record of units offered, including location, date, and circumstances of each offer, and each acceptance or refusal, including the reason for the refusal.

#### **D. Leasing Accessible Units**

1. Before offering a vacant accessible unit to a non-disabled applicant, PHA will offer such units:
  - First, to a current public housing resident having a disability that requires the special features of the vacant unit.
  - Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.
2. When offering an accessible/adaptable unit to a non-disabled applicant, PHA will require the applicant to agree to move to an available non-accessible unit within 30 days when a current resident or an applicant with a disability needs the unit. This requirement is also reflected in the lease signed with the applicant.

#### **E. Administering the Applicant and Transfer Waiting Lists**

Applications for admission and transfer will be processed centrally. Initial intake, waiting list management, screening, and assigning of housing (including transfers) will be made from the central office. Offers may be made in person, in writing or by phone from the central office or the development

#### **F. Transfers**

PHA has five possible types of transfers: Emergency, Administrative - Category 1, Category 2 and Category 3, and Incentive<sup>xxii</sup> transfers. The definition of each transfer is found in the Transfer section.

1. Emergency and Category 1 and 2 administrative transfers and Incentive transfers will take priority over admissions. Category 3 administrative transfers will be processed at the rate of four admissions to each transfer. The specific definitions of each type of transfer are covered in Section V, Transfers, below.
2. Tenants on the transfer list may refuse transfer offers for the "good cause" reasons cited in Section C above without losing their position on the transfer list.
3. Tenants who refuse a transfer offer without good cause may be removed from the transfer list and tenants whose transfers are mandatory are subject to lease termination.
4. Tenants may use the PHA Grievance Procedure if they are refused the right to transfer or if PHA is

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<sup>xxii</sup> If the PHA has no units appropriate for Incentive Transfers, but such units are developed or acquired in the future, this policy will be activated by Board resolution.

requiring them to transfer and they do not want to do so.

#### **IV. Leasing Policies**

##### **A. General Leasing Policy**

1. All units must be occupied pursuant to a lease that complies with HUD's regulations <sup>57</sup>.
2. The lease shall be signed by the head, spouse, and all other adult members of the household and by the Executive Director or other authorized representative of PHA, prior to actual admission <sup>58</sup>.
3. If a resident transfers from one PHA unit to another, a new lease will be executed for the dwelling into which the family moves <sup>59</sup>.
4. If at any time during the life of the lease agreement, a change in the resident's status results in the need for changing or amending any provision of the lease, either:
  - (a) A new lease agreement will be executed, or
  - (b) A Notice of Rent Adjustment will be executed, or
  - (c) An appropriate rider will be prepared and made a part of the existing lease.

All copies of such riders or insertions are to be dated and signed by the Resident and by the Executive Director or other authorized representative of PHA <sup>60</sup>.

5. Residents must advise PHA if they will be absent from the unit for more than 7 days. Residents shall notify the manager, secure the unit and provide a means for PHA to contact the resident in an emergency. Failure to advise PHA of an extended absence is grounds for termination of the lease.

##### **B. Showing Units Prior to Leasing**

1. When offering units, PHA will provide the applicant with a brief property description and other information to help orient the applicant to the neighborhood and location in the property. If the offer of a unit is preliminarily accepted by the applicant, the manager of the property will contact the applicant to set up a date to show the unit.
2. Once the unit is shown and the applicant accepts the unit, the manager will execute a lease. If the applicant refuses the unit, a signed reason for refusal should be obtained from the applicant. The form is then sent to the Occupancy department for a "good cause" determination.
3. No lease will have an effective date before the unit is ready for occupancy <sup>61</sup>.

##### **C. Additions to the Household and Visitors**

1. Only those persons listed on the most recent certification form and lease shall be permitted to occupy a dwelling unit <sup>62</sup>.
  - Except for natural births to or adoptions by family members, or court awarded custody, any family seeking to add a new member must request approval in writing before the new member moves in.
  - Also included, would be situations in which a person (often a relative) comes to the unit as a visitor but stayed on in the unit because the tenant needed support, for example, after a medical procedure <sup>63</sup>.
  - All persons listed on the most recent certification form and the lease must use the dwelling unit as their sole residence.
2. When a resident requests approval to add a new person to the lease, PHA will conduct pre-admission screening of any proposed new adult member to determine whether the PHA will grant such approval.

Children under the age below which Juvenile Justice records are made available, or added through a formal custody award or kinship care arrangement are exempt from the pre-admission screening process,

although the resident still needs prior permission from PHA to add children other than those born to, adopted by or awarded by the court to the family.

3. Examples of situations where the addition of a family or household **member is subject to screening** are:

- Resident plans to be married and requests to add the new spouse to the lease;
- Resident desires to add a new family member to the lease, employ a live-in aide, or take in a foster child(ren) over the age for which juvenile justice records are available;
- A unit is occupied by a remaining family member(s) under age 18 (who is not an emancipated minor) and an adult, not a part of the original household, requests permission to take over as the head of the household.

4. Residents who fail to notify PHA of additions to the household or who permit persons to join the household without undergoing screening are violating of the lease. Persons added without PHA approval will be considered unauthorized occupants and the entire household will be subject to eviction <sup>64</sup>.

5. Visitors may be permitted in a dwelling unit so long as they have no previous history of behavior on PHA premises that would be a lease violation.

- Visits of less than three days need not be reported to or approved by the Manager.
- Visits of more than three and less than fourteen days are permitted, provided they are reported to the Manager within 72 hours and authorized by the manager.
- Visits of more than 14 calendar days shall be authorized only by the Executive Director with advance documentation of extenuating circumstances.
- Visitors remaining beyond this period shall be considered unauthorized occupants and the head of the household shall be guilty of a breach of the lease.

6. Roomers and lodgers shall not be permitted to move in with any family. Violation of this provision is ground for termination of the lease <sup>65</sup>.

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

8. Family members over age 17 or emancipated minors who move from the dwelling unit to establish new households shall be removed from the lease <sup>66</sup>.

- The resident shall report the move-out within 30 calendar days of its occurrence.
- These individuals may not be readmitted to the unit and must apply as a new applicant households for placement on the waiting list.
- Medical hardship, or other extenuating circumstances shall be considered by PHA in making determinations under this paragraph.

## **V. Transfer Policy**

### **A. General Transfer Policy**

1. Transfers will be made without regard to race, color, national origin, sex, religion, or familial status. Residents can be transferred to accommodate a disability <sup>67</sup>.

2. Residents will not be transferred to a dwelling unit of equal size except to alleviate hardship of the

resident or other undesirable conditions as determined by the Executive Director or designee.

3. Residents will receive one offer of a transfer. Refusal of that offer without good cause will result in lease termination for mandatory transfers or the removal of the household from the transfer list for voluntary transfers.

## **B. Types of Transfers**

1. The order in which families are transferred shall be subject to the hierarchy by category set forth below.

- (a) Emergency Transfers are **mandatory** when PHA determines that conditions pose an immediate threat to resident life, health or safety. Emergency transfers may be made to: permit repair of unit defects hazardous to life, health, or safety; alleviate verified disability problems of a life threatening nature; or protect members of the household from attack by the criminal element in a particular property or neighborhood<sup>xxiii</sup>.

**These transfers shall take priority over new admissions.**

- (b) Category 1 Administrative transfers include **mandatory** transfers to: remove residents who are witnesses to crimes and may face reprisals; provide housing options to residents who are victims of hate crimes or extreme harassment; alleviate verified medical problems of a serious (but not life-threatening) nature; permit modernization or demolition of units; perform work (e.g., repair, modernization, or lead hazard reduction work) above a specified scale and duration that disturbs lead-based paint or controls lead-based paint hazards;<sup>68</sup> or permit a family that requires a unit with accessible features to occupy such a unit.

**These transfers shall take priority over new admissions.**

Requests for these transfers will be made to the manager with necessary documentation to substantiate the need for such transfers. Transfers may also be initiated by PHA (e.g. moving a person with mobility problems to a unit with accessible features or temporarily moving residents to a unit free of lead-based paint hazards).

- (c) Category 2 Administrative transfers correct serious occupancy standards problems.

**These transfers will take priority over new admissions.**

Category 2 transfers will only be made if the family size is so small that it includes fewer persons than the number of bedrooms, or so large that the household members over age 4 would equal more than two persons per bedroom. **These transfers are mandatory.**

If a family's size is between the smallest and largest size permissible for the unit, the family may request a transfer, but it shall be considered a Category 3 transfer.

- (d) Category 3 Administrative transfers may be made to: avoid concentration of the most economically and socially deprived families, correct occupancy standards<sup>xxiv</sup>, or address situations that interfere with peaceful enjoyment of the premises.

**These transfers will not take priority over new admissions.** They will be processed at the rate of one transfer to four admissions.

- (e) Incentive Transfers: As described in detail below, Incentive Transfers are offered to new or recently modernized units, on a nondiscriminatory basis to residents with good rental

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<sup>xxiii</sup> based on threat assessment by a law enforcement agency

<sup>xxiv</sup> Voluntary if the family is between the minimum and maximum occupancy standard but the family requests a transfer, e.g. to permit older children of opposite sexes to have separate bedrooms.



histories.

2. Whenever feasible, transfers will be made within a resident's area.

### **C. Processing Transfers**

1. A centralized transfer waiting list will be administered by the Occupancy Division. Managers submit requests for transfer, including necessary documentation, to the Occupancy Specialist Manager.

2. Transfers will be sorted into their appropriate categories by the Occupancy staff. Admissions will be made in the following order:

- First: Emergency transfers, then
- Category 1 Administrative Transfers,
- Category 2 Administrative Transfers,
- Incentive Transfers,
- Applicants, and, at a rate of four applicants to every transfer,
- Category 3 Administrative Transfers

Within each category, transfer applications will be sorted by the date the completed file (including any verification needed) is received from the manager.

3. Category 2 transfers to correct occupancy standards may be recommended at time of re-examination or interim redetermination.

4. Residents in a Category 2 over/under housed status will be advised in their 30 day "Notice of Result of Reexamination" that a transfer is recommended and that the family has been placed on the transfer list.

5. When a head of a household, originally housed in a bedroom by him/herself, has or adopts a child, the family will not be approved for a Category 2 transfer until the child is two (2) years of age. Exceptions: spouse or partner returns to the unit, marriage takes place, or family decides to remain in the unit and the unit is large enough (using the smallest-unit standard) to accommodate the number of persons now in the household.

6. Split-family transfers will be processed as Category 2 administrative transfers.

- Families that split into 2 "new" households may be transferred to two different units or
- a portion of the "old" household may be transferred to a single unit depending on family circumstances and unit availability.
- Such transfers will be made in a manner that minimizes the impact on vacant units.

### **D. Good Record Requirement for Transfers**

1. In general, and in all cases of all resident-requested transfers, residents will be considered for transfers only if the head of household and any other family members for the past two years:

- have not engaged in criminal activity that threatens the health and safety of residents and staff;
- do not owe back rent or other charges, or evidence a pattern of late payment;
- meet reasonable housekeeping standards and have no housekeeping lease violations; and
- can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities).

2. Exceptions to the good record requirements may be made for emergency transfers or when it is to

PHA's advantage<sup>xxv</sup> to make the transfer. The exception to the good record requirement will be made by the central transfer administrator taking into account the recommendation by the Manager.

Absent a determination of exception, the following policy applies to transfers:

- If back rent is owed, the resident will not be transferred until a payment plan is established or, if prior payment plans have failed, back rent is paid in full.
- A resident with housekeeping standards violations will not be transferred until he/she passes a follow-up housekeeping inspection.

#### **E. Incentive Transfers**

1. Incentive transfers are offered to residents who have good rental histories and want to move to units other than those they currently occupy on a non-discriminatory basis.

- (a) Incentive Transfers - PHA may occupy recently modernized and scattered site units through incentive transfers. Modernized units will be filled with incentive transfers, new applicants, or a combination of both in a manner that has the least impact on vacant units.
- (b) Resident requests for incentive transfers should be made to their Housing Manager. Managers may also recommend a resident for an incentive transfer. To be considered for an incentive transfer, the following conditions must be met:
  - (i) Residency in a PHA development for a least three years.
  - (ii) No more than two repayment agreements, or unpaid balances at any time in the past two (2) years.
  - (iii) No history of disturbances that resulted in lease violations or violence toward staff or neighbors as indicated by notices of lease violation in the applicant's file.
  - (iv) Good housekeeping record.

2. Incentive transfers are Category 2 administrative transfers.

3. No exceptions will be granted to the good record requirement for incentive transfers.

4. A Manager's failure to process or recommend an Incentive Transfer is subject to the Grievance Procedure.

#### **F. Paying for Transfers**

1. Residents shall bear the cost of transfers to correct occupancy standards. However, where there is a hardship due to health, disability, or other factors, the manager may recommend that families be reimbursed their out-of-pocket expenses for an occupancy standards transfer in an amount not to exceed a reasonable moving allowance established by PHA. Transfers requested or required by PHA, including those for temporary relocation during lead hazard reduction work, and all transfers for reasonable accommodations will be paid for or made by PHA.

### **VI. Eligibility for Continued Occupancy, Annual Reexaminations, and Remaining Family Members**

#### **A. Eligibility for Continued Occupancy**

Residents who meet the following criteria will be eligible for continued occupancy:

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<sup>xxv</sup> e.g. A single person is living alone in a three bedroom unit and does not want to move.

1. Qualify as a family as defined in Section XII of this policy<sup>xxvi</sup>.
2. Are in full compliance with the resident obligations and responsibilities as described in the dwelling lease.
3. Whose family members, age 6 and older, each have Social Security numbers or have certifications on file indicating they have no Social Security number.
4. Who meet HUD standards on citizenship or immigration status or are paying a pro-rated rent<sup>69</sup>.
5. Who are in compliance with the PHA's 8 hour per month community service requirements<sup>xxvii</sup>.

**B. Remaining Family Members and Prior Debt**

1. Remaining family members age 18 years or older will be held responsible for arrearages incurred by the former head or spouse. PHA will not hold remaining family members (other than the head or spouse) responsible for any portion of the arrearage incurred before the remaining member attained age 18.
2. Remaining family members under age 18 shall not be held responsible for the rent arrearages incurred by the former head of household.

**C. Reexaminations**

1. Regular reexaminations: PHA shall, at least once a year, re-examine the family composition and incomes of all resident families, except that families paying Flat Rent shall have their incomes reexamined only every three years<sup>70</sup>.
2. Special Reexaminations: When it is not possible to estimate family income accurately, a temporary determination will be made with respect to income and a special reexamination will be scheduled every 60 days until a reasonably accurate estimate of income can be made.
3. Special reexamination shall be conducted when there is a change in the head of household that requires a remaining family member to take on the responsibilities of a leaseholder.
4. New Reexamination Date Following Income Disallowance: When a family qualifies for an earned income disallowance, the date for their next regular reexamination shall be permanently adjusted to be 12 months following the date that the income disallowance began.
5. Zero Income Families: Unless the family has income that is excluded for rent computation, families reporting zero income will have their circumstances examined every 60 days until they have a stable income. Monetary or non-monetary contributions from persons not residing in the dwelling unit for any purpose other than the payment or reimbursement of medical expenses shall be considered income.

**6. Reexamination Procedures**

- (a) At the time of reexamination, all adult members of the household will be required to sign an application for continued occupancy and other forms required by HUD.
- (b) Income, allowances, Social Security numbers, and such other data as is deemed necessary will be verified, and all verified findings will be filed in the resident's folder.
- (c) A credit check will be run on each family at recertification to help detect any unreported income, family members not reported on the lease, etc.<sup>71</sup>.

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<sup>xxvi</sup> For purpose of continued occupancy, remaining family members qualify as a family so long as at least one of them is of legal age to execute a lease. Remaining family members can also include court recognized emancipated minors under age 18

<sup>xxvii</sup> applicable to certain adults who are neither elderly, disabled, working nor participating in qualifying educational or job training programs

- (d) Verified information will be analyzed and a determination made with respect to:
  - (i) Eligibility of the resident as a family or as the remaining member of a family;
  - (ii) Unit size required for the family (using the Occupancy Guidelines); and
  - (iii) Rent the family should pay.
- (e) Residents with a history of employment whose reexamination occurs when they are not employed will have income anticipated based on past and anticipated employment. Residents with seasonal or part-time employment of a cyclical nature will be asked for third party documentation of their employment including start and ending dates.
- (f) Income shall be computed in accordance with the definitions and procedures set forth in Federal regulations and this policy <sup>72</sup>.
- (g) Families failing to respond to the initial reexamination appointment will be issued a final appointment within the same month. Failure to respond to the final request will result in the family being sent a notice of lease violation and referred to the Housing Manager for termination of the lease <sup>73</sup>.

#### 6. Action Following Reexamination

- (a) If there is any change in rent, the lease will be amended, a new lease will be executed, or a Notice of Rent Adjustment will be issued <sup>74</sup>.
- (b) If any change in the unit size is required, the resident will be placed on a transfer list in accordance with the transfer criteria described above in this policy and moved to an appropriate unit when one becomes available <sup>75</sup>.

**VII. Interim Rent Adjustments: Fixed Rent System**

**A. Adjusting Rent Between Regular Reexaminations**

1. **Residents are required to report all changes in family composition or status** to the housing manager within 10 calendar days of the occurrence. Failure to report within the 10 calendar days may result in a retroactive rent increase, but not a retroactive credit or rent reduction. In order to qualify for rent reductions, residents must report income decreases promptly. **Residents are also required to report interim increases in income if they have been granted interim rent reductions.**

2. PHA wishes to encourage families to improve their economic circumstances, so most changes in family income between reexaminations will not result in a rent change. PHA will process interim changes in rent in accordance with the chart below:

<b><u>INCOME CHANGE</u></b>	<b><u>PHA ACTION</u></b>
(a) Decrease in income for any reason, <u>except</u> for decrease that lasts less than 30 days <sup>xxviii</sup> . Increase in income following PHA granting of interim rent decrease.	• PHA will process an interim reduction in rent if the income decrease will last more than 30 days. PHA will process an interim increase for income increases that follow interim rent reductions.
(b) Increase in earned income from the employment of a current household member.	• PHA will either defer the increase to the next regular reexamination or, if the individual is eligible for an earned income disallowance, will grant the disallowance.
(c) Increase in unearned income (e.g. COLA adjustment for social security).	• PHA will defer the increase to the next regular reexamination.
(d) Increase in income because a person with income (from any source) joins the household.	• PHA will defer the increase to the next regular reexamination.
(e) PHA will process an interim increase in rent if the resident has misrepresented or failed to report facts upon which rent is based, so the rent the Resident is paying is less than it should have been. PHA will apply any increase in rent retroactive to the month following the month in which the misrepresentation occurred.	

3. Complete verification of the circumstances applicable to rent adjustments must be documented and approved by the Executive Director or his/her designee <sup>76</sup>.

4. PHA will process interim adjustments in rent as follows:

(a) When a decrease in income is reported, and the Authority receives confirmation that the decrease will

<sup>xxviii</sup> Decreases in income resulting from welfare fraud or from welfare cuts for failure to comply with economic self sufficiency requirements are not eligible for rent reductions.

last less than 30 days, an interim adjustment will not be processed.

(b) Residents reporting decreases in income that are expected to last more than 30 days will have an interim adjustment processed.

5. Residents granted a reduction in rent under these provisions will be required to report for special reexaminations at intervals determined by the Housing Manager. Reporting is required until income increases or it is time for the next regularly scheduled reexamination, whichever occurs first.

#### **B. Effective Date of Adjustments**

Residents will be notified in writing of any rent adjustment including the effective date of the adjustment.

1. Rent decreases go into effect the first of the month following the reported change. Income decreases reported or verified after the tenant accounting cut-off date will be effective the first of the second month with a credit retroactive to the first month.

2. Rent increases (except those due to misrepresentation) require 30 days notice and become effective the first of the second month.

### **VIII. Lease Termination Procedures**

#### **A. General Policy: Lease Termination**

No resident's lease shall be terminated except in compliance with HUD regulations and the lease terms<sup>77</sup>.

#### **B. Notice Requirements**

1. No resident shall be given a Notice of Lease Termination without being told by PHA in writing the reason for the termination.

- The resident must also be informed of his/her right to request a hearing in accordance with the Grievance Procedure, and be given the opportunity to make such a reply as he/she may wish.
- Lease terminations for certain actions are not eligible for the Grievance Procedure, specifically: any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or PHA employees; and any drug-related criminal activity<sup>78</sup>.

2. Notices of lease termination may be served personally or posted on the apartment door.

3. Notice shall include a statement describing right of any resident with a disability to meet with the manager and determine whether a reasonable accommodation could eliminate the need for the lease termination.

#### **C. Recordkeeping Requirements**

A written record of every termination and/or eviction shall be maintained by PHA, and shall contain the following information:

- Name of resident, race and ethnicity, number and identification of unit occupied;
- Date of the Notice of Lease Termination and any other state or local notices required, which may be on the same form and run concurrently;
- Specific reason(s) for the Notice(s), with section of the lease violated, and other facts pertinent to the issuing of the Notice(s) described in detail;
- Date and method of notifying resident; and
- Summaries of any conferences held with resident including dates, names of conference participants and conclusions.

## **IX. Utilities**

In some of PHA's developments, residents pay the cost of certain utilities directly to the supplier. At these properties, resident rents are reduced by an Allowance for Utilities developed by PHA in consultation with the utility supplier and reviewed by HUD<sup>79</sup>.

### **A. Resident-Paid Utilities**

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

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

### **B. Excess Utility Charges**

1. Check-metered developments or buildings: In buildings that are check metered, residents shall have consumption-based utility allowances that reflect the size and type of units and actual equipment provided by PHA. Check meters shall be read by PHA and each tenant charged for consumption in excess of the utility allowance.
2. Residents with disabilities may be entitled to higher than normal utility allowances or 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.

## **X. Ceiling Rents/Flat Rents**

### **A. Intent and Purpose**

Ceiling rents provide an incentive to remain in public housing to families whose flat rents were reduced because of a hardship to income-based rents and whose incomes then increased so that the income-based rent is unreasonable for the housing being provided. The ceiling rent is thus in effect only for the portion of the year between the family's interim increase in rent and their next annual reexamination (when they can elect the Flat Rent).

### **B. Establishing Ceiling Rents**

PHA has established ceiling rents for all dwelling units inventory-wide. Ceiling rents for a class of units are based on the characteristics of the dwelling units, size, location or other characteristic that is unit-based.

PHA may revoke or raise ceiling rents at any time after giving reasonable notice to the affected tenants.

### **C. Calculating Ceiling Rents**

PHA will determine the minimum ceiling rents that can be charged for a unit. Ceiling rents are based on the flat rent plus any applicable utility allowance but never less than 75% of the average operating cost for units at the development.

### **D. What the Resident Pays**

Tenants in units where ceiling rents are in effect pay the lower of the ceiling rent or income-based rent.

### **E. Ceiling Rent Adjustments**

The minimum ceiling rent will be adjusted annually to reflect operating expenses as reported on the Statement of Operating Receipts and Expenditures as of the end of the most recent fiscal year.

### **F. Flat Rents**

Flat rents are market-based rents. They vary by unit size and type and also by development location. Once each year, at the annual recertification, all residents are offered the choice of paying an income-based rent or the Flat rent. Flat rents represent the actual market value of PHA's housing units. PHA will take the following information into account in developing its Flat rent Schedule:

- Rents of non-assisted rental units in the immediate neighborhood;
- Size of PHA's units compared to non-assisted rental units from the neighborhood;
- Age, type of unit and condition of PHA's units compared to non-assisted rental units from the neighborhood;
- Land use in the surrounding neighborhood;
- Amenities (childcare, laundry facilities, playgrounds, community rooms, social services, education/job training programs, etc.) at PHA's properties and in the surrounding neighborhood;
- Crime in PHA's developments and the surrounding neighborhood;
- Quality of local schools serving each PHA development;
- Availability of public transportation at each PHA development; and
- Availability of accessible units for persons with mobility impairments.

### **G. Annual Update of Flat Rents**

PHA shall review the Flat Rent structure annually and adjust the rents as needed. When a resident chooses Flat rent, his/her rent shall be adjusted only at the next regular reexamination/ recertification rather than at the point the Flat rent may change.

### **H. Recertification of Families on Flat Rents**

Families paying flat rents are required to recertify income only every three years, rather than annually, although they are still required to participate in an Annual Reexamination in order to ensure that unit size is still appropriate and Community Service requirements (if applicable) are met.

## **XI. Definitions and Procedures to be used in Determining Income and Rent**

### **A. Annual Income<sup>80</sup>**

Annual income is the anticipated total income from all sources, including net income derived from assets, received by the family head and spouse (even if temporarily absent) and by each additional family member including all net income from assets for the 12-month period following the effective date of



initial determination or reexamination of income, exclusive of income that is temporary, non-recurring, or sporadic as defined below, or is specifically excluded from income by other federal statute. 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 operation of a business or profession, including any withdrawal of cash or assets from the operation of the business. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining the net income from a business. An allowance for the straight line depreciation of assets used in a business or profession may be deducted as provided in IRS regulations. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the business;
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 the straight line depreciation of real or personal property is permitted. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the property;

If 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 payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts [See B. 14. below for treatment of delayed or deferred periodic payment of social security or supplemental security income benefits.];
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (But see paragraph B. 3. below concerning treatment of lump-sum additions as Family assets.);
6. All welfare assistance payments (Temporary Assistance to Needy Families, General Assistance) received by or on behalf of any family member;
7. Periodic and determinable allowances, such as alimony and child support payments, and regular cash and non-cash contributions or gifts received from agencies or persons not residing in the dwelling made to or on behalf of family members; and
8. All regular pay, special pay, and allowances of a family member in the Armed Forces. (See paragraph B. 7. below concerning pay for exposure to hostile fire.)

**B. Items not included in Annual Income<sup>81</sup>**

Annual Income does not include the following:

1. Income from the 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 individuals 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, one-time lottery winnings, and settlement for personal property losses (but see paragraphs 4 and 5 above if the payments are or will be periodic in nature);

[See paragraph 14. below for treatment of delayed or deferred periodic payments of Social Security or

Supplemental Security Income benefits.]

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, provided the person meets the definition of a live-in aide (See Section 12 of these policies);
6. The full amount of student financial assistance paid directly to the student or the educational institution;
7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
8. Certain amounts received that are related to participation in the following programs:
  - (a) Amounts received under HUD funded training programs (e.g. Step-up program: excludes stipends, wages, transportation payments, child care vouchers, etc. for the duration of the training);
  - (b) Amounts received by a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - (c) Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) to allow participation in a specific program;
  - (d) A resident services stipend. A resident services stipend is a modest amount (not to exceed \$200/month) received by a public housing resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in public housing. Such services may include but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time; and
  - (e) Incremental earnings and/or benefits resulting to any family member from participation in qualifying state of local employment training program (including training programs not affiliated with the local government), and training of family members 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 a limited period as determined in advance by the PHA;
9. Temporary, non-recurring, or sporadic income (including gifts);
10. Reparation payments paid by foreign governments 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 the household and spouse);
12. Adoption assistance payments in excess of \$480 per adopted child;
13. The incremental earnings and benefits to any resident 1) whose annual income increases due to employment of a family member who was unemployed for one or more years previous to employment; or 2) whose annual income increases as the result of increased earnings by a family member during participation in any economic self sufficiency or other job training program; or 3) whose annual income increases due to new employment or increased earnings of a family member during or within six months of receiving state-funded assistance, benefits or services, **will not be increased during the exclusion period**. For purposes of this paragraph, the following definitions apply:
  - (a) State-funded assistance, benefits or services means any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering Temporary Assistance for Needy Families (TANF) and

Welfare-to-Work 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) During the 12 month period beginning when the member first qualifies for a disallowance, the PHA must exclude from Annual Income any increase in income as a result of employment. For the 12 months following the exclusion period, 50% of the income increase shall be excluded.

(c) Regardless of how long it takes a resident to work for 12 months (to qualify for the first exclusion) or the second 12 months (to qualify for the second exclusion), the maximum period for the disallowance (exclusion) is 48 months.

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

14. Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;

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 developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;

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 the United States Housing Act of 1937. (A notice will be published by HUD in the Federal Register identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.)

The following is a list of benefits excluded by other Federal Statute:

- The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 [**7 USC 2017 (h)**];
- Payments to volunteers under the Domestic Volunteer Service Act of 1973 [**42 USC 5044 (g), 5088**];

Examples of programs under this Act include but are not limited to:

—the Retired Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Older American Committee Service Program;

—National Volunteer Antipoverty Programs such as VISTA, Peace Corps, Service Learning Program, and Special Volunteer Programs;

—Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE).

- Payments received under the Alaska Native Claims Settlement Act [**43 USC.1626 (a)**];
- Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes [**25 USC. 459e**];
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program [**42 USC 8624 (f)**];

- Payments received under programs funded in whole or in part under the Job Training Partnership Act [29 USC 1552 (b)] ;
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians [Pub. L. 94-540, 90 Stat 2503-04];
- The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 USC 1407-08), or from funds held in trust for an Indian Tribe by the Secretary of Interior [25 USC 117b, 1407]; and
- 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 USC 1087 uu].

— Examples of Title IV programs include but are not limited to: Basic Educational Opportunity Grants (Pell Grants), Supplemental Opportunity Grants, State Student Incentive Grants, College Work Study, and Byrd Scholarships.

- Payments received from programs funded under Title V of the Older Americans Act of 1965 [42 USC 3056 (f)]:

— Examples of programs under this act include but are not limited to: Senior Community Services Employment Program (CSEP), National Caucus Center on the Black Aged, National Urban League, Association National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.

- *Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established in the In Re Agent Orange product liability litigation;*
- *Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 94 Stat. 1785);*
- *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 USC 9858q);*
- *Earned income tax credit refund payments received on or after January 1, 1991 (26 USC 32 (j)).*
- *Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;*
- *Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990;*

### C. Anticipating Annual Income<sup>xxix</sup>

If it is not feasible to anticipate income for a 12-month period, the Authority may use the annualized income anticipated for a shorter period, subject to an Interim Adjustment at the end of the shorter period. (This method would be used for teachers who are only paid for 9 months, or for tenants receiving unemployment compensation.)

### D. Adjusted Income<sup>xxx</sup>

Adjusted Income (the income upon which rent is based) means Annual Income less the following deductions and exemptions:

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<sup>xxix</sup> 24 CFR §5.609(d)

<sup>xxx</sup> 24 CFR § 5.611

### **For All Families**

1. **Child Care Expenses** — A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which Annual Income is computed, BUT ONLY when such care is necessary to enable a family member to be gainfully employed, to seek employment or to further his/her education. Amounts deducted must be unreimbursed expenses and shall not exceed: (a) the amount of income earned by the family member released to work; or (b) an amount determined to be reasonable by PHA when the expense is incurred to permit education or to seek employment.

2. **Dependent Deduction** — An exemption of \$480 for each member of the family residing in the household (other than the head of household, or spouse, Live-in Aide, foster adult or foster child) who is under eighteen years of age or who is eighteen years of age or older and disabled, or a full-time student.

3. **Work-related Disability Expenses** — A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for family members with disabilities where such expenses are necessary to permit a family member(s), including the disabled member, to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) freed to work.

Equipment and auxiliary apparatus may include but are not limited to: wheelchairs, lifts, reading devices for the visually impaired, and equipment added to cars and vans to permit their use by the disabled family member. Also included would be the annualized cost differential between a car and the cost of a van required by the family member with disabilities.

- a. For non-elderly families and elderly or disabled families without medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less three percent of Annual Income, provided the amount so calculated does not exceed the employment income earned.
- b. For elderly or disabled families with medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less three percent of Annual Income (provided the amount so calculated does not exceed the employment income earned) PLUS medical expenses as defined below.

### **For elderly and disabled families only:**

4. **Medical Expense Deduction** — A deduction of unreimbursed Medical Expenses, including insurance premiums, anticipated for the period for which Annual Income is computed.

Medical expenses include but are not limited to: services of physicians and other health care professionals, services of health care facilities, health insurance premiums (including the cost of Medicare), prescription and non-prescription medicines, transportation to and from treatment, dental expenses, eyeglasses, hearing aids and batteries, attendant care (unrelated to employment of family members), and payments on accumulated medical bills. To be considered by PHA for the purpose of determining a deduction from income, the expenses claimed must be verifiable.

- a. For elderly or disabled families without work-related disability expenses: The amount of the deduction shall equal total medical expenses less three percent of annual income.
- b. For elderly or disabled families with both work-related disability expenses and medical expenses: the amount of the deduction is calculated as described in paragraph 3 (b) above.

5. **Elderly/Disabled Household Exemption** — An exemption of \$400 per household. See Definitions in Appendix II.

6. **Optional Deductions/Exemptions:** PHA may amend this policy and grant further deductions. Any such deduction would be noted here.

## **E. Computing Rent**

1. The first step in computing rent is to determine each family's Total Tenant Payment. Then, if the family is occupying a unit that has tenant-paid utilities, the Utility Allowance is subtracted from the Total Tenant Payment. The result of this computation, if a positive number, is the Tenant Rent. If the Total Tenant Payment less the Utility Allowance is a negative number, the result is the utility reimbursement, which may be paid to the tenant or, directly to the utility company by the PHA.

### **2. Total Tenant Payment is the highest of:**

- **30% of adjusted monthly income;** or
- **10% of monthly income;** but never less than the
- **Minimum Rent;** and never more than the
- **Flat Rent, if chosen by the family**

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

4. The Minimum Rent shall be \$\_\_\_ per month, but a hardship exemption shall be granted to residents who can document that they are unable to pay the \$\_\_\_ because of a long-term hardship (over 90 days). Examples under which residents would qualify for the hardship exemption to the minimum rent would be limited to the following:

- The family has lost eligibility for or is applying for an eligibility determination for a Federal, State or local assistance program;
- The family would be evicted as result of the imposition of the minimum rent requirements;
- The income of the family has decreased because of changed circumstances, including loss of employment;
- A death in the family has occurred; or
- Other circumstances as determined by PHA

The minimum rent hardship exemption is retroactive to October 21, 1998, so if any resident who qualified for the hardship exemption was charged a minimum rent since that time, the resident may be entitled to a retroactive credit.

5. At initial certification and at each subsequent annual reexamination the resident shall be offered a choice of paying either the income-based rent or the Flat Rent applicable to the unit they will be occupying.

## **Regulatory Citations for Appendix III**

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<sup>1</sup> 24 CFR Part 1

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<sup>2</sup> 24 CFR Part 100  
<sup>3</sup> 24 CFR Part 8  
<sup>4</sup> 24 CFR Part 146  
<sup>5</sup> 24 CFR § 960.103  
<sup>6</sup> 24 CFR § 960.203  
<sup>7</sup> 24 CFR §§ 8.21, 8.23, 8.24, and 8.25  
<sup>8</sup> 24 CFR § 100.204  
<sup>9</sup> 24 CFR § 8.24(a)(2)  
<sup>10</sup> 24 CFR § 8.24  
<sup>11</sup> 24 CFR § 8.23(b)  
<sup>12</sup> 24 CFR § 8.24 (a) (1)  
<sup>13</sup> 24 CFR § 8.24 (b)  
<sup>14</sup> 24 CFR § 8.32 (c)  
<sup>15</sup> 24 CFR § 8.26  
<sup>16</sup> 24 CFR § 8.26  
<sup>17</sup> 24 CFR § 8.32 (c)  
<sup>18</sup> 24 CFR § 8.32 (c) and § 40, Uniform Federal Accessibility Standards, 3.5 and 4.1.6(3)  
<sup>19</sup> 24 CFR § 906.202 (a)  
<sup>20</sup> 24 CFR § 8.20 and 8.21  
<sup>21</sup> 24 CFR § 8.6  
<sup>22</sup> 24 CFR § 8.6  
<sup>23</sup> 24 CFR § 8.6  
<sup>24</sup> 24 CFR § 8.6  
<sup>25</sup> 24 CFR § 960.103(b)  
<sup>26</sup> 24 CFR § 5.500 Subpart E  
<sup>27</sup> 24 CFR § 5.216  
<sup>28</sup> 24 CFR § 960.203  
<sup>29</sup> 24 CFR 960.206  
<sup>30</sup> 24 CFR § 85.42  
<sup>31</sup> 24 CFR § 960.206 (c)  
<sup>32</sup> 24 CFR § 960.206(e)  
<sup>33</sup> 24 CFR § 960.206(a)(4)  
<sup>34</sup> 24 CFR § 960  
<sup>35</sup> 24 CFR § 960.203 (c)  
<sup>36</sup> 24 CFR § 960.203 (c)  
<sup>37</sup> 24 CFR § 960.203  
<sup>38</sup> 24 CFR § 8.3 Definition: Qualified individual with disabilities  
<sup>39</sup> 24 CFR § 960.203  
<sup>40</sup> 24 CFR § 960.203 (c)(1)  
<sup>41</sup> 24 CFR § 960.208  
<sup>42</sup> 24 CFR § 960.203 (c)(1)  
<sup>43</sup> 24 CFR § 960.203 (c)(2)  
<sup>44</sup> 24 CFR § 960.203 (c)(3)  
<sup>45</sup> 24 CFR § 8.2 Definition: Qualified Individual with Disabilities  
<sup>46</sup> 24 CFR § 960.202(a)  
<sup>47</sup> 24 CFR § 8.2 Definition: Qualified Individual with Disabilities  
<sup>48</sup> 24 CFR § 960.203(d)  
<sup>49</sup> 24 CFR § 960.203 (d)  
<sup>50</sup> 24 CFR § 5.403  
<sup>51</sup> 24 CFR § 5.603  
<sup>52</sup> 24 CFR § 5.500  
<sup>53</sup> 24 CFR § 5.400  
<sup>54</sup> 24 CFR § 960.203

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- <sup>55</sup> 24 CFR § 960.208(b)  
<sup>56</sup> 24 CFR § 960.208(a)  
<sup>57</sup> 24 CFR § 966  
<sup>58</sup> 24 CFR § 966.4 (p)  
<sup>59</sup> 24 CFR § 966.4 (c)(3)  
<sup>60</sup> 24 CFR § 966.4 (o)  
<sup>61</sup> 24 CFR § 966.4 (i)  
<sup>62</sup> 24 CFR §§ 960.203 (c) and 966.4(a)(1)(v)  
<sup>63</sup> 24 CFR § 966.4 (f)(3) & (c)(2)  
<sup>64</sup> 24 CFR § 966.4 (f)(3)  
<sup>65</sup> 24 CFR § 966.4 (f)(2)  
<sup>66</sup> 24 CFR § 966.4 (f)(3)  
<sup>67</sup> 24 CFR § 100.5  
<sup>68</sup> 24 CFR § 35.1345(a)(2)  
<sup>69</sup> 24 CFR § 5.508  
<sup>70</sup> 24 CFR § 960.257  
<sup>71</sup> 24 CFR § 960.259(c)  
<sup>72</sup> 24 CFR § 5  
<sup>73</sup> 24 CFR § 966.4 (c)(2)  
<sup>74</sup> 24 CFR § 966.4 (c) & (o)  
<sup>75</sup> 24 CFR § 966.4 (c)(3)  
<sup>76</sup> 24 CFR § 960.259 (c)  
<sup>77</sup> 24 CFR § 966.4 (l)(2)  
<sup>78</sup> 24 CFR § 966.4 (l)(3)  
<sup>79</sup> 24 CFR § 965 & 966.4 (b)(2)  
<sup>80</sup> 24 CFR 5.609  
<sup>81</sup> 24 CFR § 5.609