



**LANSING HOUSING COMMISSION ADMISSIONS AND
CONTINUED OCCUPANCY POLICY FOR THE
PUBLIC HOUSING PROGRAM**

Approved by the PHA Board of Commissioners:

Submitted to HUD:

TABLE OF CONTENTS

Chapter 1 OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION.....	1-1
-------------------	-----

PART I: THE PHA

I.A. OVERVIEW	1-1
I.B. ORGANIZATION AND STRUCTURE OF THE PHA	1-1
I.C. PHA MISSION	1-2
I.D. THE PHA'S COMMITMENT TO ETHICS AND SERVICE	1-3

PART II: THE PUBLIC HOUSING PROGRAM

II.A. OVERVIEW AND HISTORY OF THE PROGRAM	1-3
II.B. PUBLIC HOUSING PROGRAM BASICS	1-4
II.C. PUBLIC HOUSING PARTNERSHIPS	1-4
II.D. APPLICABLE REGULATIONS	1-7

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

III.A. OVERVIEW AND PURPOSE OF THE POLICY	1-8
III.B. CONTENTS OF THE POLICY.....	1-8
III.C. UPDATING AND REVISING THE POLICY	1-9

Chapter 2 FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION.....	2-1
-------------------	-----

PART I: NONDISCRIMINATION

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

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

II.A. OVERVIEW	2-5
II.B. DEFINITION OF REASONABLE ACCOMMODATION	2-5
II.C. REQUEST FOR AN ACCOMMODATION	2-8
II.D. VERIFICATION OF DISABILITY	2-9
II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION	2-10
II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS	2-11
II.G. PHYSICAL ACCESSIBILITY	2-12
II.H. DENIAL OR TERMINATION OF ASSISTANCE	2-12

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

III.A. OVERVIEW	2-13
III.B. ORAL INTERPRETATION.....	2-14
III.C. WRITTEN TRANSLATION.....	2-14
III.D. IMPLEMENTATION PLAN	2-15

EXHIBITS

2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS.....	2-16
--	------

Chapter 3 ELIGIBILITY

INTRODUCTION.....	3-1
-------------------	-----

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

I.A. OVERVIEW	3-2
I.B. FAMILY AND HOUSEHOLD	3-2
I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY.....	3-2
I.D. HEAD OF HOUSEHOLD.....	3-3
I.E. SPOUSE, COHEAD, AND OTHER ADULT	3-4
I.F. DEPENDENT	3-4
I.G. FULL-TIME STUDENT	3-5
I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY	3-5
I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY	3-5
I.J. GUESTS.....	3-6
I.K. FOSTER CHILDREN AND FOSTER ADULTS.....	3-7
I.L. ABSENT FAMILY MEMBERS	3-7
I.M. LIVE-IN AIDE.....	3-9

PART II: BASIC ELIGIBILITY CRITERIA

II.A. INCOME ELIGIBILITY AND TARGETING.....	3-10
II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS.....	3-11
II.C. SOCIAL SECURITY NUMBERS	3-14
II.D. FAMILY CONSENT TO RELEASE OF INFORMATION.....	3-15

PART III: DENIAL OF ADMISSION

III.A. OVERVIEW	3-15
III.B. REQUIRED DENIAL OF ADMISSION.....	3-16
III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION	3-17
III.D. SCREENING	3-19
III.E. CRITERIA FOR DECIDING TO DENY ADMISSION	3-23
III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING	3-25
III.G. NOTICE OF ELIGIBILITY OR DENIAL.....	3-26

EXHIBITS

3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES	3-28
---	------

Chapter 4 APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION.....	4-1
-------------------	-----

PART I: THE APPLICATION PROCESS

I.A. OVERVIEW	4-2
I.B. APPLYING FOR ASSISTANCE	4-2
I.C. ACCESSIBILITY OF THE APPLICATION PROCESS.....	4-3
I.D. PLACEMENT ON THE WAITING LIST	4-3

PART II: MANAGING THE WAITING LIST

II.A. OVERVIEW	4-5
II.B. ORGANIZATION OF THE WAITING LIST	4-5
II.C. OPENING AND CLOSING THE WAITING LIST	4-6
II.D. FAMILY OUTREACH	4-7
II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES.....	4-8
II.F. UPDATING THE WAITING LIST	4-9

PART III: TENANT SELECTION

III.A. OVERVIEW	4-10
III.B. SELECTION METHOD.....	4-10
III.C. NOTIFICATION OF SELECTION.....	4-15
III.D. THE APPLICATION INTERVIEW.....	4-15
III.E. FINAL ELIGIBILITY DETERMINATION.....	4-17

Chapter 5 OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION.....	5-1
-------------------	-----

PART I: OCCUPANCY STANDARDS

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

PART II: UNIT OFFERS

II.A. OVERVIEW	5-4
II.B. NUMBER OF OFFERS	5-4
II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL.....	5-4
II.D. REFUSALS OF UNIT OFFERS.....	5-5
II.E. ACCESSIBLE UNITS	5-6
II.F. DESIGNATED HOUSING	5-7

Chapter 6

INCOME AND RENT DETERMINATIONS

INTRODUCTION.....	6-1
-------------------	-----

PART I: ANNUAL INCOME

I.A. OVERVIEW	6-1
I.B. HOUSEHOLD COMPOSITION AND INCOME.....	6-2
I.C. ANTICIPATING ANNUAL INCOME.....	6-5
I.D. EARNED INCOME	6-7
I.E. EARNED INCOME DISALLOWANCE.....	6-10
I.F. BUSINESS INCOME	6-12
I.G. ASSETS	6-13
I.H. PERIODIC PAYMENTS	6-20
I.I. PAYMENTS IN LIEU OF EARNINGS.....	6-21
I.J. WELFARE ASSISTANCE	6-22
I.K. PERIODIC AND DETERMINABLE ALLOWANCES	6-23
I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME.....	6-23

PART II: ADJUSTED INCOME

II.A. INTRODUCTION.....	6-27
II.B. DEPENDENT DEDUCTION	6-28
II.C. ELDERLY OR DISABLED FAMILY DEDUCTION.....	6-28
II.D. MEDICAL EXPENSES DEDUCTION	6-29
II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION	6-30
II.F. CHILD CARE EXPENSE DEDUCTION.....	6-32
II.G. PERMISSIVE DEDUCTIONS.....	6-35

PART III: CALCULATING RENT

III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS.....	6-35
III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT	6-38
III.C. UTILITY ALLOWANCES	6-41
III.D. PRORATED RENT FOR MIXED FAMILIES.....	6-42
III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS.....	6-43

EXHIBITS

6-1: ANNUAL INCOME INCLUSIONS.....	6-46
6-2: ANNUAL INCOME EXCLUSIONS.....	6-49
6-3: TREATMENT OF FAMILY ASSETS.....	6-54
6-4: EARNED INCOME DISALLOWANCE.....	6-56
6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION.....	6-58

Chapter 7 VERIFICATION

INTRODUCTION.....	7-1
-------------------	-----

PART I: GENERAL VERIFICATION REQUIREMENTS

I.A. FAMILY CONSENT TO RELEASE OF INFORMATION.....	7-1
I.B. OVERVIEW OF VERIFICATION REQUIREMENTS	7-2
I.C. UP-FRONT INCOME VERIFICATION (UIV)	7-5
I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION.....	7-8
I.E. SELF-CERTIFICATION	7-10

PART II: VERIFYING FAMILY INFORMATION

II.A. VERIFICATION OF LEGAL IDENTITY.....	7-11
II.B. SOCIAL SECURITY NUMBERS	7-12
II.C. DOCUMENTATION OF AGE	7-14
II.D. FAMILY RELATIONSHIPS.....	7-14
II.E. VERIFICATION OF STUDENT STATUS	7-17
II.F. DOCUMENTATION OF DISABILITY.....	7-17
II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS.....	7-18
II.H. VERIFICATION OF PREFERENCE STATUS	7-21

PART III: VERIFYING INCOME AND ASSETS

III.A. EARNED INCOME	7-22
III.B. BUSINESS AND SELF EMPLOYMENT INCOME.....	7-22
III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS	7-23
III.D. ALIMONY OR CHILD SUPPORT	7-24
III.E. ASSETS AND INCOME FROM ASSETS.....	7-25
III.F. NET INCOME FROM RENTAL PROPERTY.....	7-26
III.G. RETIREMENT ACCOUNTS	7-27
III.H. INCOME FROM EXCLUDED SOURCES	7-27
III.I. ZERO ANNUAL INCOME STATUS.....	7-28

PART IV: VERIFYING MANDATORY DEDUCTIONS

IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS.....	7-28
IV.B. MEDICAL EXPENSE DEDUCTION	7-28
IV.C. DISABILITY ASSISTANCE EXPENSES	7-30
IV.D. CHILD CARE EXPENSES	7-33

EXHIBITS

7-1: Summary of Documentation Requirements for Noncitizens	7-36
--	------

Chapter 8 LEASING AND INSPECTIONS

INTRODUCTION.....	8-1
-------------------	-----

PART I: LEASING

I.A. OVERVIEW	8-1
I.B. LEASE ORIENTATION	8-1
I.C. EXECUTION OF LEASE	8-2
I.D. MODIFICATIONS TO THE LEASE	8-3
I.E. SECURITY DEPOSITS	8-4
I.F. PAYMENTS UNDER THE LEASE	8-5

PART II: INSPECTIONS

II.A. OVERVIEW	8-7
II.B. TYPES OF INSPECTIONS	8-8
II.C. NOTICE AND SCHEDULING OF INSPECTIONS	8-9
II.D. INSPECTION RESULTS	8-10

Chapter 9 REEXAMINATIONS

INTRODUCTION.....	9-1
-------------------	-----

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

I.A. OVERVIEW	9-1
I.B. SCHEDULING ANNUAL REEXAMINATIONS.....	9-2
I.C. CONDUCTING ANNUAL REEXAMINATIONS.....	9-3
I.D. EFFECTIVE DATES.....	9-4

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

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

PART III: INTERIM REEXAMINATIONS

III.A. OVERVIEW	9-7
III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION.....	9-7
III.C. CHANGES AFFECTING INCOME OR EXPENSES.....	9-9
III.D. PROCESSING THE INTERIM REEXAMINATION	9-11

PART IV: RECALCULATING TENANT RENT

IV.A. OVERVIEW	9-11
IV.B. CHANGES IN UTILITY ALLOWANCES	9-12
IV.C. NOTIFICATION OF NEW TENANT RENT	9-12

IV.D. DISCREPANCIES	9-12
---------------------------	------

Chapter 10 PETS

INTRODUCTION.....	10-1
-------------------	------

PART I: ASSISTANCE ANIMALS

I.A. OVERVIEW	10-1
I.B. APPROVAL OF ASSISTANCE ANIMALS.....	10-2
I.C. CARE AND HANDLING	10-3

PART II: PET POLICIES FOR ALL DEVELOPMENTS

II.A. OVERVIEW	10-3
II.B. MANAGEMENT APPROVAL OF PETS	10-3
II.C. STANDARDS FOR PETS	10-5
II.D. PET RULES.....	10-7

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

III.A. OVERVIEW	10-12
III.B. PET DEPOSITS	10-12
III.C. OTHER CHARGES	10-12

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

IV.A. OVERVIEW	10-12
IV.B. PET DEPOSITS	10-12
IV.C. NON-REFUNDABLE NOMINAL PET FEE	10-13
IV.D. OTHER CHARGES	10-14

Chapter 11 COMMUNITY SERVICE

INTRODUCTION.....	11-1
-------------------	------

PART I: COMMUNITY SERVICE REQUIREMENT

I.A. OVERVIEW	11-1
I.B. REQUIREMENTS.....	11-1
I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE	11-7
I.D. DOCUMENTATION AND VERIFICATION	11-9
I.E. NONCOMPLIANCE	11-10

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

II.A. OVERVIEW	11-13
----------------------	-------

EXHIBITS

11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY	11-15
11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE	11-20
11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE	11-22

Chapter 12 TRANSFER POLICY

INTRODUCTION.....	12-1
-------------------	------

PART I: EMERGENCY TRANSFERS

I.A. OVERVIEW	12-1
I.B. EMERGENCY TRANSFERS.....	12-1
I.C. EMERGENCY TRANSFER PROCEDURES.....	12-2
I.D. COSTS OF TRANSFER.....	12-2

PART II: PHA REQUIRED TRANSFERS

II.A. OVERVIEW	12-3
II.B. TYPES OF PHA REQUIRED TRANSFERS.....	12-3
II.C. ADVERSE ACTION.....	12-5
II.D. COST OF TRANSFER	12-5

PART III: TRANSFERS REQUESTED BY TENANTS

III.A. OVERVIEW	12-6
III.B. TYPES OF RESIDENT REQUESTED TRANSFERS.....	12-6
III.C. ELIGIBILITY FOR TRANSFER.....	12-7
III.D. SECURITY DEPOSITS	12-7
III.E. COST OF TRANSFER	12-8
III.F. HANDLING OF REQUESTS	12-8

PART IV: TRANSFER PROCESSING

IV.A. OVERVIEW	12-8
IV.B. TRANSFER LIST.....	12-9
IV.C. TRANSFER OFFER POLICY	12-9
IV.D. GOOD CAUSE FOR UNIT REFUSAL.....	12-10
IV.E. DECONCENTRATION	12-11
IV.F. REEXAMINATION POLICIES FOR TRANSFERS	12-11

Chapter 13 LEASE TERMINATIONS

INTRODUCTION.....	13-1
-------------------	------

PART I: TERMINATION BY TENANT

I.A.	TENANT CHOOSES TO TERMINATE THE LEASE	13-2
------	---	------

PART II: TERMINATION BY PHA – MANDATORY

II.A.	OVERVIEW	13-2
II.B.	FAILURE TO PROVIDE CONSENT	13-2
II.C.	FAILURE TO DOCUMENT CITIZENSHIP	13-2
II.D.	FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS	13-3
II.E.	FAILURE TO ACCEPT THE PHA'S OFFER OF A LEASE REVISION	13-3
II.F.	METHAMPHETAMINE CONVICTION.....	13-4
II.G.	NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS	13-4
II.H.	DEATH OF A SOLE FAMILY MEMBER	13-4

PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

III.A.	OVERVIEW	13-4
III.B.	MANDATORY LEASE PROVISIONS.....	13-5
III.C.	OTHER AUTHORIZED REASONS FOR TERMINATION	13-9
III.D.	ALTERNATIVES TO TERMINATION OF TENANCY	13-12
III.E.	CRITERIA FOR DECIDING TO TERMINATE TENANCY	13-12
III.F.	TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING.....	13-14

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

IV.A.	OVERVIEW	13-17
IV.B.	CONDUCTING CRIMINAL RECORDS CHECKS	13-17
IV.C.	DISCLOSURE OF CRIMINAL RECORDS TO FAMILY	13-17
IV.D.	LEASE TERMINATION NOTICE.....	13-18
IV.E.	EVICTION.....	13-20
IV.F.	NOTIFICATION TO POST OFFICE	13-21
IV.G.	RECORD KEEPING	13-21

Chapter 14 GRIEVANCES AND APPEALS

INTRODUCTION.....	14-1
-------------------	------

PART I: INFORMAL REVIEW FOR PUBLIC HOUSING APPLICANTS

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

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

II.A.	HEARING AND APPEAL PROVISIONS FOR NONCITIZENS.....	14-4
-------	--	------

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

III.A. REQUIREMENTS.....	14-7
III.B. DEFINITIONS.....	14-8
III.C. APPLICABILITY	14-9
III.D. INFORMAL SETTLEMENT OF GRIEVANCE	14-10
III.E. PROCEDURES TO OBTAIN A HEARING	14-11
III.F. SELECTION OF HEARING OFFICER/PANEL.....	14-12
III.G. PROCEDURES GOVERNING THE HEARING	14-13
III.H. DECISION OF THE HEARING OFFICER/PANEL	14-14

Chapter 15 PROGRAM INTEGRITY

INTRODUCTION.....	15-1
-------------------	------

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

I.A. PREVENTING ERRORS AND PROGRAM ABUSE.....	15-1
I.B. DETECTING ERRORS AND PROGRAM ABUSE	15-2
I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE	15-3

PART II: CORRECTIVE MEASURES AND PENALTIES

II.A. UNDER- OR OVERPAYMENT	15-5
II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE	15-5
II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE	15-7
II.D. CRIMINAL PROSECUTION	15-8
II.E. FRAUD AND PROGRAM ABUSE RECOVERIES.....	15-8

Chapter 16 PROGRAM ADMINISTRATION

INTRODUCTION.....	16-1
-------------------	------

PART I: SETTING UTILITY ALLOWANCES

I.A. OVERVIEW	16-2
I.B. UTILITY ALLOWANCES	16-2
I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES.....	16-3
I.D. NOTICE REQUIREMENTS	16-4
I.E. REASONABLE ACCOMMODATION.....	16-4

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

II.A. OVERVIEW	16-4
II.B. FLAT RENTS.....	16-5
II.C. PUBLIC HOUSING MAXIMUM RENTS	16-5

PART III: FAMILY DEBTS TO THE PHA

III.A. OVERVIEW	16-7
III.B. REPAYMENT POLICY	16-7

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

IV.A. OVERVIEW	16-11
IV.B. PHAS INDICATORS.....	16-11
IV.C. PHAS SCORING	16-12

PART V: RECORD KEEPING

V.A. OVERVIEW	16-13
V.B. RECORD RETENTION	16-13
V.C. RECORDS MANAGEMENT	16-14

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

VI.A. REPORTING REQUIREMENTS	16-18
------------------------------------	-------

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

VII.A. OVERVIEW	16-18
VII.B. DEFINITIONS.....	16-19
VII.C. NOTIFICATION	16-20
VII.D. DOCUMENTATION.....	16-21
VII.E. CONFIDENTIALITY.....	16-23

EXHIBITS

16-1: SAMPLE NOTICE TO PUBLIC HOUSING APPLICANTS AND RESIDENTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA).....	16-24
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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Lansing Housing Commission ("LHC") receives its operating subsidy for its public housing program from the U. S. Department of Housing and Urban Development ("HUD"). LHC is not a federal department or agency. LHC is a public body corporate, created and authorized by Public Act 18 of 1933 as amended, to develop and operate housing and housing programs for low-income families in the state of Michigan. LHC entered into an Annual Contributions Contract ("ACC") with HUD to administer the public housing program. LHC must ensure compliance with federal laws, rules, and regulations. As such, we must establish policies and procedures to implement the federal requirements and to ensure consistency in program operations.

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

There are three parts to this chapter:

Part I: The Lansing Housing Commission ("LHC"). This part includes a description of LHC, its jurisdiction, its programs, and its mission and intent.

Part II: LHC's Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: LHC's Admissions and Continued Occupancy ("ACOP"). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: The Lansing Housing Commission

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF THE LANSING HOUSING COMMISSION

LHC's Low Income Public housing Program (LIPH) is funded by the federal government and administered by the **Lansing Housing Commission** for the jurisdiction of the **City of Lansing and County of Ingham**¹.

¹ The Lansing Housing Commission's Housing Choice Voucher Program (HCV) commonly known as the Section 8 Program has a jurisdictional boundary which includes: Ingham, parts of Eaton and parts of Clinton Counties

LHC is governed by a board of “commissioners.” This document will refer to either the “board of commissioners” or the “board” when discussing the governing officials.

Commissioners are appointed in accordance with PA 18 and serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies governing LHC’s business. The Executive Director ensures those policies are followed. The board is also responsible for preserving and expanding the agency’s resources and assuring the agency’s continued viability and success.

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

The principal staff member of LHC is the Executive Director (“ED”), who is selected and hired by the board. The ED oversees the day to day operations of LHC and is directly responsible for carrying out the policies established by the Board. The ED’s duties include hiring, training, and supervising LHC’s staff, as well as budget and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates.

1-I.C. LHC MISSION

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

LHC Mission Statement

The Lansing Housing Commission will effectively and efficiently develop, manage and preserve quality affordable housing.

LHC’s Vision

- Develop and Maintain Community Partnerships
- Promote High Quality Customer Service
- Sustain Sound Fiscal Management
- Ensure Operational Sustainability

1-I.D. LHC's COMMITMENT TO ETHICS AND SERVICE

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

- Adhere to applicable federal and state laws and regulations
- Achieve high ratings in compliance measurement indicators
- Maintain efficiency in program operation
- Ensure fair and consistent treatment of clients served.
- Maintain housing in good repair – in compliance with program uniform physical condition standards –Attract and retain families with a mix of and work toward de-concentration of poverty.
- Encourage self-sufficiency of participant families. Promote fair housing and accessibility.
- Attain, high-performing status through continuous process improvement of LHC.

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

PART II: THE PUBLIC HOUSING PROGRAM

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

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

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

The Housing Act of 1965 created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time.

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

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement laws enacted by Congress that effect public housing. HUD contracts with LHC to administer programs in accordance with HUD regulations and provides an operating subsidy to the PHA. LHC creates written policies that are consistent with HUD regulations. Among these policies is LHC's Admissions and Continued Occupancy Policy ("ACOP"). The ACOP is a policy which requires approval by the LHC's Board of Commissioners.

Pursuant to HUD regulations LHC is required to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. LHC screens applicants for public housing and, if they are found eligible and suitable offers the applicant a rental unit. If the applicant accepts the offer, LHC enters into a contract with the applicant known as the lease. Upon acceptance, the applicant becomes a resident of the public housing program.

In the context of the public housing program, a resident is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining member of an otherwise qualified household of the resident family residing in the dwelling unit. [24 CFR 966.53]. The terms resident, tenant, families and households are used interchangeably in this policy, depending on context.

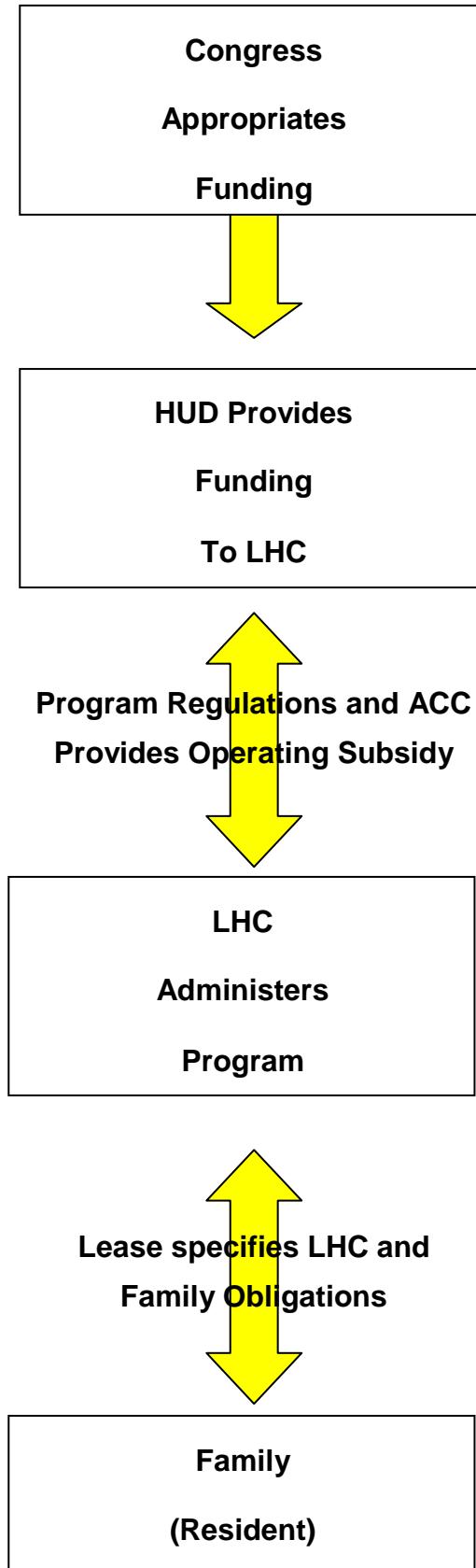
Since LHC owns the public housing development, LHC is the landlord. LHC must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and LHC's policy.

1-II.C. PUBLIC HOUSING PARTNERSHIPS

LHC has significant partnerships with HUD, the Local Unit of Government (City of Lansing), Residents and Vendors. LHC entered into a contractual agreement with HUD (ACC) to administer the public housing program. The Mayor of the City of Lansing appoints a 5 member board to govern the operations of LHC. LHC works cooperatively with various city departments, including Development and Planning, Human Relations, Fire and Police. LHC also enters into a contractual relationship with the residents through the public housing lease. This contract details the roles and responsibilities of the resident and LHC. In addition, LHC enters into contracts with private vendors to provide services and supplies the Commission and residents.

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

The Public Housing Relationships



What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing programs approved by Congress
- Allocate operating subsidies to LHC
- Allocate capital funding to LHC
- Provide technical assistance to LHC on interpreting and applying program requirements
- Monitor LHC compliance and performance.

What does LHC do?

LHC owns and manages public housing developments and administers the program in compliance with governing regulations. LHC has the following major responsibilities:

- Ensure program compliance.
- Establish LHC policies
- Review applications from interested applicant families to determine whether applicants are eligible for the program
- Maintain waiting lists and select families for admission
- Maintain housing units by making any necessary repairs in a timely manner
- Screen families who apply for tenancy to determine if they are suitable for participation in the program
- Offer units to families (minimize vacancies without overcrowding)
- Ensure units meet or exceed the standard of decent, safe, sanitary, and in good repair in compliance with uniform physical conditions standards)
- Make sure LHC is a good steward of the funds provided to administer the public housing program
- Ensure families are not over or under subsidized.
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure households comply with program rules
- Provide prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, , LHC's ACOP, and applicable federal, state and local laws.

What does the Resident do?

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

- Comply with the terms of the lease
- Provide LHC with complete and accurate information, determined by LHC to be necessary for administration of the program
- Cooperate with LHC by attending all appointments scheduled by LHC
- Participate in LHC unit inspections.
- Care for the housing unit by avoiding any damages or violations of the uniform physical condition standards.
- Not engage in drug-related or violent criminal activity
- Notify LHC before moving or terminating the lease
- Use the assisted unit only for residence and as the sole residence of the family.
- Promptly notify LHC of any changes in family composition

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

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

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES (“ACOP”)

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

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

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

1-III.B. CONTENTS OF THE POLICY

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

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

Policy Development

HUD monitors development and implementation of new policies for consistency with program requirements and guidelines.

HUD makes a distinction between:

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

HUD expects LHC to develop a clearly written comprehensive ACOP that is compliant with mandatory policy requirements and to make clear, the optional policies LHC has adopted. The Admissions and Continued Occupancy Policy fulfills this requirement and it provides a guide to ensure clear and consistent application of policy.

If a LHC's ACOP contains optional non mandatory policies, it must determine such policies are consistent with legislation, regulations, and other mandatory requirements. LHC closely followed HUD's guidebook, memos and notices in the development of its optional policies. Following HUD guidance in the preparation of optional LHC policies, provides LHC with a "safe harbor."

1-III.C. UPDATING AND REVISING THE POLICY

LHC will revise this ACOP as needed to comply with changes in HUD regulations and based on best practices. This policy and any changes must be approved by LHC's Board of Commissioners. Pertinent sections must be included in the Agency Plan.

CHAPTER 2 **Fair Housing and Equal Opportunity**

INTRODUCTION

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

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

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

LHC shall fully comply with all Federal, State, and local nondiscrimination laws and with rules and regulations governing Fair Housing and Equal Opportunity in housing and employment. LHC will comply with all laws relating to civil rights, including:

- Title VI of the Civil Rights Act of 1964;

- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988);
- Executive Order 11063;
- Section 504 of the Rehabilitation Act of 1973;
- The Age Discrimination Act of 1975;
- Title II of the American with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments); and
- Any applicable State laws or local ordinances and any legislation protecting individual rights of Residents, Applicants or staff that may subsequently be enacted.

LHC shall not discriminate in the provision of public housing based on race, color, sex, religion, familial status, and disability, related to any housing that is part of any development or developments under LHC's jurisdiction covered by an annual contributions contract under the United States Housing Act of 1937, as amended.

Fair Housing posters and housing information will be displayed in locations throughout LHC's offices in such a manner as to be easily readable from a wheelchair.

To further its commitment to full compliance with applicable civil rights laws, LHC will provide Federal, State and local information, to its Residents, regarding discrimination and any recourse available if they believe they are victims of discrimination. Such information will be made available during the Resident orientation session.

2-I.B. NONDISCRIMINATION

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

LHC shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes").

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

LHC Policy

LHC shall not discriminate in the provision of public housing based on race, color, sex, religion, and familial status, disability, related to any housing that is part of any development or developments under LHC's jurisdiction covered by an annual contributions contract under the United States Housing Act of 1937, as amended.

Fair Housing posters and housing information will be displayed in locations throughout LHC's offices.

To further its commitment to full compliance with applicable civil rights laws, LHC will provide Federal, State and local information to its Residents regarding discrimination and any recourse available to them if they believe they are victims of discrimination. Such information will be made available during the Resident orientation session.

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

LHC shall not automatically deny admission to a particular group or category of otherwise qualified Applicants (e.g., families with children born to unmarried parents, elderly families with animals).

The LHC will not use any of these factors to:

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

Providing Information to Families

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

Discrimination Complaints

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

LHC Policy

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

LHC will attempt to remedy discrimination complaints made against the LHC.

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

Affirmative Marketing and Other Affirmative Obligations

LHC administers its programs affirmatively, so as to achieve a condition in which individuals of similar income levels in the same housing market areas have a like range of housing choices available to them regardless of their race, color, religion, sex, disability, familial status or national origin in accordance with 24 CFR Section 200.610.

The affirmative fair housing marketing rules require LHC to develop fair housing marketing plans that attract Applicants of all racial and ethnic groups. LHC offers the following affirmative marketing initiatives:

- Marketing materials will support an affirmative advertising and marketing program that is consistent with Fair Housing Act guidelines on wording, logo, size or type, etc.;
- LHC will use the Equal Housing Opportunity slogan: Equal Housing Opportunity;
- LHC will advertise in print and electronic media that are used, viewed or listed by those identified as the population that is least likely to apply;
- Informational materials shall describe the housing units, application process, waiting list, screening criteria, and preference structure accurately;

- Marketing materials shall use clear and easy to understand terms and, if appropriate, use language other than English to reach the target population that is least likely to apply; and
- LHC has implemented policies to provide reasonable accommodations to persons with disabilities.

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

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

LHC Policy

The LHC will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the LHC, by including the following language:

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

A specific name and phone number as the contact for requests for accommodation for persons with disabilities will be indicated on orientation, intake application and reexamination documents.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will

sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

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

Types of Reasonable Accommodations

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

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

SERVICE AND REASONABLE ACCOMMODATIONS POLICY

This policy applies whenever a Family initiates contact with LHC or schedules or reschedules appointments of any kind.

LHC's Reasonable Accommodations Policy is listed in the Supplemental Policies to this ACOP.

1. Americans with Disabilities Act (ADA) of 1990

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- A record of such impairment;
- Being regarded as having such impairment; or
- Association with a person with impairment.

2. Undue Hardship

All requests for accommodation or modification of a unit will be verified by a reliable, knowledgeable professional.

In determining whether an accommodation would create an undue hardship, the following factors will be considered.

- The nature and cost of the accommodation needed;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and
- The number of persons employed at such facility, the number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

3. Verification of a Request for Accommodation

All requests for accommodation or modification of a unit will be verified by a reliable, knowledgeable professional.

4. Reasonable Accommodation

Reasonable accommodation will be made for a person with a disability who requires an advocate or accessible office. A designee will be allowed to provide some information, but only with the written permission of the person with the disability.

As a reasonable accommodation, all LHC mailings, upon request, will be made available in an accessible format.

LHC will engage organizations which provide assistance for hearing and sight-impaired persons when necessary to permit an Applicant or a Resident to conduct business with LHC.

Families will be offered an accessible unit, upon request by the Family, when an

accessible unit is available.

5. Recertification by Mail

LHC will permit the Family to submit annual and interim recertification forms through the mail, when LHC has determined that this action is necessary as a reasonable accommodation. The mail-in packet will include notice to the Family of LHC's deadline for returning the completed forms to LHC.

If there is more than one adult member in the household, but only one is disabled, re-certifications will not be processed through the mail. In such cases, LHC may conduct the recertification by a home visit or have the able adult Family member assist the Family member with a disability with completing and signing the forms.

6. Recertification by Home Visits

When requested and where the need for reasonable accommodation has been established, LHC will conduct home visits to Residents to conduct annual and interim re-certifications.

Requests for LHC to conduct a recertification by home visit must be received by LHC at least seven (7) calendar days before the scheduled appointment date in order for the request to be considered.

LHC will consider recertification's by home visit that are requested after the scheduled appointment has been missed, according to the number of allowed rescheduled appointments noted in Chapter 9, Recertification's.

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

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

LHC Policy

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

LHC's Reasonable Accommodations Policy is listed in the Supplemental Policies to this ACOP.

2-II.D. VERIFICATION OF DISABILITY

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

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

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

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

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

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

extent of any disability.

- Medical records will not be accepted or retained in the participant file.
- In the event that LHC does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, LHC will dispose of it. In place of the information, LHC will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

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

LHC must approve a request for an accommodation if the following three conditions are met.

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

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

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

LHC Policy

After a request for an accommodation is presented, the LHC will respond, in writing, within 30 business days.

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

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

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

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

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

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

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

LHC Policy

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

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with LHC staff, one-on-one assistance will be provided upon request.

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

2-II.G. PHYSICAL ACCESSIBILITY

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

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

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

- The Admissions and Continued Occupancy Policy describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

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

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

2-III.A. OVERVIEW

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

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

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

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

2-III.B. ORAL INTERPRETATION

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

LHC Policy

The LHC will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken.

“Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

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

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

2-III.C. WRITTEN TRANSLATION

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

LHC Policy

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

The LHC will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

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

materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

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

LHC Policy

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

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

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

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

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

The phrase "physical or mental impairment" includes:

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

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

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

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

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that

cannot be controlled with a reasonable accommodation under the public housing program

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

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

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

CHAPTER 3
ELIGIBILITY FOR ADMISSION
[24 CFR PART 960, SUBPART B]

INTRODUCTION

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

To be eligible for the public housing program:

- The applicant family must:
 - Qualify as a family as defined by HUD and LHC.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for family members as required.
 - Consent to LHC's collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or LHC.

This chapter contains three parts:

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

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

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

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

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

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

Family

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

LHC Policy

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

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

Household

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

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

Family Breakup

LHC Policy

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

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

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree,

LHC will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, LHC will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, LHC will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, or stalking and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of criminal activity; (5) the original wait list applicant and (6) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

LHC Policy

Any household member on the original application or born into remaining in the unit is to be considered a remaining member of the family. At LHC's discretion.

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

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

LHC Policy

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

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

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

LHC Policy

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

A co-head is an individual who is listed on the 50058 equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

LHC Policy

Minors who are emancipated under Michigan State law may be designated as a co-head.

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

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

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

Joint Custody of Dependents

LHC Policy

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

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

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

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

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

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

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

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

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

Persons with Disabilities

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

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

Disabled Family

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

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

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

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

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

LHC Policy

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

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

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

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In

addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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

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

LHC Policy

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

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

LHC Policy

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

Absent Students

LHC Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless

information becomes available to LHC indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

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

LHC Policy

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

Absent Head, Spouse, or Co-head

LHC Policy

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

Individuals Confined for Medical Reasons

LHC Policy

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

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

Return of Permanently Absent Family Members

LHC Policy

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

3-I.M. LIVE-IN AIDE

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

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

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

LHC Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new reasonable accommodation request for LHC to process at each annual recertification. In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

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

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person has a history of drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 30 business days of receiving a request for a live-in aide, including all required documentation related to the request, LHC will notify the family of its decision in writing.

Live-In Aide

A live-in aide is not considered a Family member and has no rights or benefits under the lease. A live-in aide:

If LHC approves a live-in aide:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-Citizen Rule Requirements.
- Live-in aides are not considered as a remaining member of the Family.

Live-in aides must comply with LHC's rules and regulations. Relatives are not automatically excluded from being live-in aides, but they must satisfy the live-in aide requirements described above.

Family members of a live-in aide may also reside in the unit, providing doing so does not require an additional bedroom for the Family and that the presence of the live-in aide's Family member(s) does not overcrowd the unit.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

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

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the

median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 960.201]

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

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

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

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

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

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

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

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

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

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with LHC's Limited English Proficiency Plan, the notice must be in a language that is understood by

the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

LHC Policy

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

Eligible Noncitizens

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

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

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the

head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. LHC is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

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

Mixed Families

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

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

LHC may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by LHC that the individual or at least one family member is eligible [24 CFR 5.512(a)].

LHC Policy

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

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

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

informal hearing process.

Informal hearing procedures are contained in Chapter 14.

Non-eligible members – Applicant families that include Non-eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students are not eligible for assistance.

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

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

If an individual qualifies for a time extension for the submission of required documents, LHC must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

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

LHC Policy

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2010-3]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

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

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/

Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

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

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires or permits LHC to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHA's authority in this area is limited by the Violence against Women Act of 2005 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking [24 CFR 5.2005(b)].

This part covers the following topics:

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

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

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

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

HUD requires LHC to deny assistance in the following cases:

- Any member of the household that has been evicted from federally-assisted housing in the last 7 years for drug-related criminal activity. HUD permits but does not require LHC to admit an otherwise-eligible family if the household member has completed a LHC-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

LHC Policy

Applicants who have ever been convicted of drug-related criminal activity for manufacturing or producing methamphetamine, also known as "speed" on the premises of federally assisted housing are ineligible for admission to public housing.

LHC will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 7 years for drug-related criminal activity (other than for cases where the applicant has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing), if LHC is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by LHC, or the person who committed the crime is no longer living in the household.

- LHC determines that any household member is currently engaged in the use of illegal drugs. Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. Currently engaged in the illegal use of a drug means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

LHC Policy

LHC defines “Currently engaged in” as any use of illegal drugs during the previous 7 years.

- LHC has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

LHC Policy

In determining reasonable cause, LHC will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. LHC will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a State of Michigan sex offender registration program.

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

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

Criminal Activity [24 CFR 960.203(c)]

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

LHC Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past seven (7) years, the family will be denied admission.

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

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

Criminal activity, that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity, which may threaten the health or safety of LHC staff, contractors, subcontractors, or agents and will be placed on a No Trespass list LHC wide for seven (7) years.

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

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 7 years. A conviction for such activity will be given more weight than an arrest or an eviction.

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

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

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

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

LHC Policy

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may

adversely affect the health, safety, or welfare of other tenants

- Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)
- Owes rent or other amounts to LHC or any other PHA or owner in connection with any assisted housing program
- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- Has engaged in or threatened violent or abusive behavior toward LHC personnel
- Abusive or violent behavior towards LHC personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- In making its decision to deny admission, the LHC will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, LHC may, on a case-by-case basis, decide not to deny admission.
- LHC will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

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

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

LHC is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a State of Michigan sex offender program in the state where the housing is located, as well as in

any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

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

LHC Policy

LHC will perform criminal background checks for all adult household members.

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

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

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

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

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

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after LHC chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

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

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

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

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

LHC Policy

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

SCREENING FOR SUITABILITY [24 CFR 960.204, 960.205]

LHC is responsible for the screening and selection of families to occupy public housing units. LHC may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

LHC Policy

LHC will consider the family's history with respect to the following factors:

Payment of rent and utilities

Caring for a unit and premises

Respecting the rights of other residents to the peaceful enjoyment of their housing

Criminal activity that is a threat to the health, safety, or property of others

Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C

Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability [PH Occ GB, pp. 47-56]

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

LHC Policy

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

Past Performance in Meeting Financial Obligations, Especially Rent

- LHC and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the LHC/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. LHC and landlords will be asked if they would rent to the applicant family again.
- Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history LHC will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

- Applicants with no rental payment history will also be asked to provide LHC with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.
- If previous landlords or the utility company do not respond to requests from LHC, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

LHC will verify via HUD's EIV System, in the Debts Owed to PHAs and Terminations Report, whether an applicant owes a debt to another public housing agency.

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare

of Other Tenants, or Cause Damage to the Unit or the Development

LHC and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect (including bed bugs) or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

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

Home visits may be used to determine the applicant's ability to care for the unit.

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

Evidence

LHC Policy

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

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

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

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

In the event LHC receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct

(including the seriousness of the offense). In a manner consistent with its policies, LHC's may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

LHC Policy

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

The seriousness of the case, especially with respect to how it would affect other residents

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

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, or stalking

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

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

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

LHC will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully within 14 consecutive days.

Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]

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

LHC Policy

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

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

Reasonable Accommodation [PH Occ GB, pp. 58-60]

If the family includes a person with disabilities, LHC's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

LHC Policy

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

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

The Violence against Women Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking.

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

Notification

LHC Policy

LHC acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under LHC's policies. Therefore, if LHC makes a determination to deny admission to an applicant family, LHC will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP and will request that an applicant wishing to claim this protection notify LHC within 14 calendar days.

Documentation

Victim Documentation [24 CFR 5.2007]

LHC Policy

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

Perpetrator Documentation

LHC Policy

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

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

Documentation validating the perpetrator has successfully completed or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

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

LHC uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

LHC Policy

If based on a criminal record or sex offender registration information an applicant family appears to be ineligible, LHC will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the

subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact LHC to dispute the information within that 10 day period, LHC will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

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

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

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

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:
 - (A) IN GENERAL – The term developmental disability means a severe, chronic disability of an individual that-
 - (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (ii) is manifested before the individual attains age 22;
 - (iii) is likely to continue indefinitely;
 - (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and
 - (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

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

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

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

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

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) Is regarded as having an impairment means:
 - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
 - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment
 - (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

CHAPTER 4

Applications, Waiting List and Tenant Selection

[24 CFR 960.204]

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides LHC with the information needed to determine the family's eligibility. HUD requires LHC to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, LHC must select families from the waiting list in accordance with HUD requirements and LHC policies as stated this Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

LHC is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by LHC to receive preferential treatment.

HUD regulations require that LHC to comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that LHC will be in compliant with all relevant fair housing requirements, as described in Chapter 2.

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

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

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

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

Part III: Tenant Selection. This part describes the policies that guide LHC in selecting families from the waiting list as units become available. It also specifies

how in-person interviews will be used to ensure that LHC has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide LHC's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes LHC's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits LHC to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. However, LHC must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application [Notice PIH 2009-36].

LHC Policy

Depending upon the length of time that applicants may need to wait to be housed, LHC may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

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

Families may apply for housing on line only. This is done when the waiting list is open by going to www.waitlistcheck.com. No applications will be accepted at any

site via mail, fax or in person. All multiple applications for the same community will be denied.

When possible, and regardless of whether a one- or two-step application process is used, LHC will request all adults listed on the application to provide proof of legal identity, to complete a HUD 9886 (Authorization for Release of Information/Privacy Act Notice), and complete a Declaration of Section 214 Citizenship Status form at time of application. If this is not possible, then the family will be asked to provide the abovementioned information at time of eligibility orientation, provided the family is deemed eligible to be placed on the waiting list.

Site-Based Waiting Lists

Per the Quality Housing and Work Responsibility Act of 1998, LHC may implement site-based waiting lists.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

LHC must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, LHC application process.

Disabled Populations [24 CFR 8; PH Occ GB, p. 68]

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

Limited English Proficiency

LHC is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

LHC must review each completed application received and make a preliminary assessment of the family's eligibility. LHC must place families on the waiting list for whom the list is open unless LHC determines the family to be ineligible. Where the family is determined to be ineligible, LHC must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41]. Where the family is not determined to be ineligible, the

family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

LHC Policy

If LHC can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, LHC will send written notification of the ineligibility determination within 10 business days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

LHC Policy

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

Applicants will be placed on the waiting list according to LHC preference(s) and the date and time their complete application is received by LHC.

LHC will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to LHC standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

Families that do not qualify for the bedroom size requested will be placed at the bottom of the waiting list of the correct bedroom size.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

LHC must have policies regarding the type of waiting list it will utilize as well as the

various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how LHC may structure its waiting list and how families must be treated if they apply for public housing at a LHC that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

LHC's public housing waiting list must be organized in such a manner to allow LHC to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

LHC Policy

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

Name and social security number of head of household

Unit size required (number of family members)

Amount and source of annual income

Accessibility requirement, if any

Date and time of application or application number

Household type (family, elderly, disabled)

Admission preference, if any

Race and ethnicity of the head of household

LHC operates development specific site base waiting lists.

NOTE: LHC doesn't operate a Housing Authority wide waiting list.

LHC has adopted site-based waiting lists. LHC obtained approval from HUD through submission of its Annual Plan when it implemented its site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

LHC Policy

LHC has adopted and received approval for site-based waiting lists.

HUD directs that a family that applies to reside in public housing must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, LHC maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)]. LHC has adopted not to organize its waiting list in this way.

LHC Policy

LHC will not merge the public housing waiting list with the waiting list for any other program the LHC operates. When there are insufficient applicants on a site-based waiting list, LHC will contact applicants on the other site-based waiting lists who may qualify for the type of housing with insufficient applicants.

"Insufficient applicants" on a list will be defined as not enough families to fill vacancies for at least 12 to 24 months, based on anticipated turnover at the developments.

Every reasonable action will be taken by LHC to assure that applicants can make informed choices regarding the development(s) in which they wish to reside. LHC will disclose information to applicants regarding the location of available sites, occupancy number and size of accessible units. LHC will also include basic information relative to amenities such as day care, security, transportation, training programs, and an estimate of the period of time the applicant will likely have to wait to be admitted to units of different types.

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

Opening and Closing the Waiting Lists

LHC, at its direction, may restrict application intake, suspend application intake, and close waiting lists in whole or in part. LHC may open or close the list by local preference category.

The decision to close the waiting list will be based on the number of applications available for a particular size and type of unit, the number of Applicants who qualify for a local preference, and the ability of LHC to house an Applicant in an appropriate unit within a reasonable period of time.

When LHC opens the waiting list, LHC will advertise the location(s), and program(s) for which applications are being accepting through any one, some or all of the following:

LHC's website, Public Notice in local newspapers, City of Lansing Television, Service Agencies and other local media resources as appropriate.

The notice will contain:

- The dates, times, and the locations where families may apply.
- Information on site-based amenities- LHC's web site only.
- (Website address: www.lanshc.org)
- The programs and site locations for which applications will be taken.
- A brief description of the program.
- Limitations, if any, on who may apply.

The notices will be made available in an accessible format, if requested. They will provide potential Applicants with information that includes LHC's address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Reopening the List

If the waiting list is closed and LHC decides to open the waiting list, LHC will publicly announce the opening.

LHC may elect to open the waiting list by category, i.e. for specific sites, specific unit sizes, local preference or elderly, near elderly, or disabled Applicants and continue to keep the balance of the waiting list closed.

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

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

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

LHC outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program

- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

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

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

LHC Policy

LHC will monitor the characteristics of the population being served and the characteristics of the population as a whole in LHC's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

Change in Circumstances

Changes in circumstances while on the waiting list may affect the Applicant's entitlement to a preference. An Applicant is required to notify LHC in writing when his/her circumstances change.

CHANGES PRIOR TO UNIT OFFER

Changes that occur during the period between placement on the waiting list and an offer of a suitable unit may affect the Family's eligibility or Total Tenant Payment. The Applicant will be notified in writing of changes in his/her eligibility or level of benefits and offered the right to an informal hearing when applicable (See Chapter 14, Grievance Policy).

Applicants with a Change in Family Size or Status

LHC Policy

While the family is on the waiting list, the family must inform LHC, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

4-II.F. UPDATING THE WAITING LIST

HUD requires LHC to establish policies to use when removing applicant names from the waiting list [24 CFR 960.202(a)(2)(iv)].

REMOVAL FROM WAITING LIST AND PURGING

The waiting list will be purged at least once a year by a mailing to all Applicants to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest.

If an Applicant fails to respond within fourteen (14) calendar days, she/he will be removed from the waiting list. If a letter is returned without a forwarding address, the Applicant will be removed without further notice, and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated. LHC will exhaust all contact information provided such as telephone numbers and e-mail addresses. An extension to reply to the purge notification will be considered as a reasonable accommodation requested by a person with a disability.

If an Applicant is removed from the waiting list for failure to respond, she/he will not be entitled to an informal review unless a person with a disability requests a review as a reasonable accommodation for being unable to reply within the proscribed period, or the Applicant claims a verifiable mitigating circumstance.

Notices will be made available in an accessible format upon the request of a person with a disability. LHC allows a grace period of fourteen (14) calendar days after completion of the purge. Applicants who respond during this grace period will be reinstated.

Applicants will be notified with a confirmation of LHC's receipt of their application that they are responsible for notifying LHC within fourteen (14) calendar days, if they have a change of address.

PART III: TENANT SELECTION

4-III.A. OVERVIEW

LHC must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The PHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. LHC must not assign persons to a

particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

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

LHC must maintain a clear record of all information required to verify that the family is selected from the waiting list according to LHC's selection policies [24 CFR 960.206(e)(2)]. LHC policies must be posted any place where the PHA receives applications at an individual development. LHC must provide a copy of its tenant selection policies upon request to any applicant or tenant. LHC may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

LHC Policy

When an applicant or resident family requests a copy of LHC's tenant selection policies, LHC will provide copies to them free of charge.

NOTE: All applications are "only" accepted at the development where the family is applying for housing.

4-III.B. SELECTION METHOD

LHC must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that LHC will use.

Local Preferences

The preference system described below will work in combination with requirements to match the characteristics of the Family to the type of unit available, including units with targeted populations and income targeting requirements. The ability to provide preferences for some family types will depend on unit size available.

A public hearing with opportunity for public comment will be held before LHC adopts any local preference.

LHC will use the following preferences:

South Washington one bedroom units only:

A foster care ward age 18 or older approved for the Independent living program.

Federally Declared National Disasters Preference:

LHC may use available public housing units to assist Applicants affected by a national disaster that occurred on or after July 1, 2005, as designated by Executive Order of the President of the United States. This preference category shall take precedence over all other local preference categories.

Working Preference (24 CFR 5.415)

For Families where the head of household, spouse or sole Family member is employed and has been employed for twelve (12) months:

- While the Family is on the waiting list employment by a previously employed Family member, age 18 or over, that lasts at least 90 days. The employment must provide a minimum of 20 hours of work per week for the Family member claiming the preference.
- Employment at the time of offer to receive the local preference, the Applicant Family must have at least one Family member, age 18 or older, employed at the time of LHC's offer of housing. Employment at the time of the offer must be for the 90 day period immediately prior to the offer of housing and provide a minimum of 20 hours per week for the Family member claiming the preference.

This includes Families who are graduates of or participants in educational and training programs designed to prepare the individual for the job market.

Victims of Domestic Violence Preference

A local preference is available for an Applicant who can verify involuntary displacement due to domestic violence. The actual or threatened violence must have occurred within the past twelve (12) months or be of a continuing nature. The violence must be documented through (1) federal, state or local police or court records, or (2) a statement, on a form prepared by LHC, that the incident or incidents in question are bona fide incidents of abuse. The statement must be signed, under the penalty of perjury, by an employee, agent or volunteer of a victim service provider, an attorney or a medical professional from whom the victim has sought assistance in addressing domestic violence or the effects of the abuse. The victim of domestic violence must also sign the statement and identify the alleged perpetrator.

An Applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.

To qualify for this preference, the abuser must still reside in the unit from which the Applicant was displaced. The displacement from the unit must be verified as being involuntary to avoid an attempt to circumvent the waiting list by the alleged victim and abuser.

Elderly or Disabled Families Preference

Applicants who are elderly or disabled will be given a selection priority over all

1-person household Applicants regardless of preference status.

Income Targeting Requirement [24 CFR 960.202(b)]

LHC will monitor its admissions to ensure that at least 40% of Families admitted to public housing in each fiscal year have incomes that do not exceed 30% of area median income.

Families whose incomes do not exceed 30% of area median income will be referred to as “extremely low-income families” in this ACOP.

Once LHC has met the 40% targeted income requirement for new admissions of extremely low-income families, LHC will fill the remainder of its new admission units with families whose incomes do not exceed 80% of the HUD approved area median income.

Procedure to be Used when there are Insufficient Applicants on the Waiting List

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the PHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. LHC must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. LHC may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the PHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. LHC may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

LHC Policy

At this time LHC doesn't operate or at this time doesn't anticipate the operation of a “mixed population” development.

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

UNITS DESIGNED FOR THE ELDERLY

LHC has no units designated for the Elderly.

UNITS DESIGNATED FOR THE DISABLED

In accordance with the 1992 Housing Act, Disabled Families with a head of household, spouse or sole member who qualifies as a person with disabilities as defined in 24 CFR 945.05 will receive a preference for admission to accessible units.

LHC has units designed for persons with mobility, sight and hearing impairments (referred to as accessible units). These units were designed and constructed specifically to meet the needs of persons requiring the use of wheelchairs and persons requiring other modifications.

Preference for occupancy of these units will be given to Families with disabled Family members who require the modifications or facilities provided in the units.

H. GENERAL OCCUPANCY UNITS

General occupancy units are designed to house all populations of eligible Families. In accordance with LHC's occupancy standards, eligible Families not needing accessible units will be admitted to LHC's general occupancy units.

LHC will use its local preference system as stated in this Chapter for admission of eligible Families.

LHC will treat all single Applicants who are not elderly or disabled as they would any other Family for admission purposes

DECONCENTRATION OF POVERTY AND INCOME-MIXING [24 CFR 903.1 and 903.2]

LHC's admission policy is designed to provide for de-concentration of poverty and income-mixing by bringing higher income Residents into lower income developments and lower income Residents into higher income developments, where possible.

Gross annual income is used for income limits at admission and for income- mixing purposes.

De-concentration Methodology

LHC shall admit lower income Families to higher income developments and admit higher income Families to lower income developments using the following steps:

Step 1: LHC will annually determine the average income of all Families residing in all of its' general occupancy (Family) developments (including Families residing in developments approved for demolition or conversion to Resident-based assistance).

Step 2: LHC will annually determine the average income of all Families residing in each building of each general occupancy development.

Step 3: LHC will annually characterize each building of each general occupancy development as higher income or lower income based on whether the average income in the building is above or below the overall average.

Step 4: LHC will determine which Families on the waiting list have incomes higher than LHC-wide average and designate these Families "higher income Families," and which have incomes lower than LHC-wide average and designate these Families "lower income Families."

Step 5: When a unit becomes available in a higher income building, LHC shall skip Families on the waiting list if necessary to reach a lower income family to whom it will offer the unit except in cases of Families who are victims of domestic violence. When a unit becomes available in a lower income building, LHC shall skip Families on the waiting list if necessary to reach a higher income Family to whom it will offer the unit except in cases of Families who are victims of domestic violence.

Skipping shall be applied to all site-based waiting lists.

If the waiting list does not contain a Family in the income category to which the unit is to be offered, LHC shall offer the unit to a Family in the other income category.

Order of Selection [24 CFR 960.206(e)]

LHC system of preferences may select families either according to the date and time of application or by a random selection process.

LHC Policy

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

When selecting applicants from the waiting list, LHC will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. LHC will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are

lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and LHC policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, LHC must notify the family.

LHC Policy

LHC will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview

Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

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

If an Applicant fails to respond within fourteen (14) calendar days, she/he will be removed from the waiting list. If a letter is returned without a forwarding address, the Applicant will be removed without further notice, and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated. LHC will exhaust all contact information provided such as telephone numbers and e-mail addresses. An extension to reply to the purge notification will be considered as a reasonable accommodation requested by a person with a disability.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that LHC obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if LHC determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2010-3].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

LHC Policy

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

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

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, LHC will allow the family to retain its place on the waiting list for six (6) months. If all household members have not disclosed their SSNs at the next time a unit becomes available, LHC will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, LHC will proceed with the interview. If LHC determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

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

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

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

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

If the family is unable to attend a scheduled interview, the family should contact LHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, LHC will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without LHC approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents the LHC from making an eligibility determination; therefore, LHC will not offer an informal hearing.

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

LHC must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including PHA suitability standards, the PHA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for

admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

LHC Policy

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

LHC must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

LHC Policy

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

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

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

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

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

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

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, LHC may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. LHC is permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

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

LHC Policy

LHC will use the same occupancy standards for each of its communities.

LHC's occupancy standards are as follows:

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

- Persons of the opposite sex (other than spouses, unrelated adults and children under age 18 will not be required to share a bedroom).
- Persons of different generations will not be required to share a bedroom.
- Live-in aides will be allocated a separate bedroom if available. No additional bedrooms will be provided for the live-in aide's family.
- Single person families will be allocated a zero or one bedroom.
- Foster children shall be included in determining unit size.
- Family members who are absent most of the time, such as a member who is away in the military, will not be allocated a bedroom.
- LHC will not assign a larger bedroom size due to additions of Family members other than by birth, adoption, marriage or court-awarded custody. (Families must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption or court-awarded custody.)

LHC will reference the following standards in determining the appropriate unit bedroom size for a family (living rooms will not be used as a bedroom except with written LHC approval. Basements can never be used as living space.):

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

LHC Policy

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

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members

exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit. Such request for exception must be made in accordance with LHC Reasonable Accommodation Policy.

When evaluating exception requests LHC will consider the size and configuration of the unit. In no case will LHC grant an exception in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of three years from the date of admission, unless they have a subsequent change in family size or composition.

To meet occupancy goals, LHC may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit, at the expense of the family, when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

LHC Policy

All requests for exceptions to the occupancy standards must be submitted in writing. In the case of a request for exception as a reasonable accommodation, LHC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, LHC will consider the exception request any time the resident indicates an accommodation is needed whether or not a formal written request is submitted.

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

LHC will notify the family of its decision within 14 calendar days of receiving the family's request.

Accessible Units

LHC has accessible units designed for persons with mobility, sight and hearing impairments.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

LHC must assign eligible applicants to dwelling units in accordance with a plan consistent with civil rights and nondiscrimination.

In filling an actual or expected vacancy, LHC must offer the dwelling unit to an applicant in the appropriate sequence. Applicants must have the ability to pay the security deposit and 1st month's rent immediately upon a unit offer or LHC may go to the next household in sequential order . LHC will offer the unit until it is accepted. This section describes the PHA's policies with regard to the number of unit offers made to applicants selected from the waiting list. This section also describes LHC's policies for offering units with accessibility features.

LHC Policy

LHC will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

LHC Policy

LHC's plan for offering units to applicants will be to make two offers of units based on the site-based wait list of the applicant.

When an applicant rejects the first unit offer, the applicant will remain on the wait list; however, the application will be re-sequenced based on the date of rejection (i.e., the wait list sequence date will be the date of the first unit offer rejection). When their name again reaches the top of the wait list, the second offer of unit will be made. The second unit offer will be the final offer, unless there is good cause for refusing the offer.

When an applicant rejects the second/final unit offer, LHC will remove the applicant's name from the wait list. Removal from the waiting list means the applicant must reapply for admission. In these cases, the applicant is not entitled to an informal review.

NOTE: LHC does not restrict the number of waiting lists a family can appear on; applicants are free to apply to any waiting lists which are open.

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

LHC Policy

Applicants must accept a unit offer within 48 hours instead of 24 hours and pay the security deposit. LHC will not hold a unit off of the market based on a verbal commitment. Unless a security deposit and the 1st month's rent is received from the applicant within 48 hours of a unit offer LHC will offer the available unit to the

next eligible household until it is accepted as evidenced by a paid security deposit and 1st month's rent. Applicants who are unable to pay the security deposit and 1st month's rent within 48 hours of a unit offer will be placed in a ready pool

An applicant can remain in the ready pool until a 2nd unit offer is made. If the applicant does not accept the 2nd unit offer and pay the security deposit and 1st month's rent within 48 hours after a unit is offered he/she will be removed from the waitlist.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

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

LHC Policy

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

The family demonstrates to LHC's satisfaction accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to LHC's satisfaction accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list. The applicant will remain on the wait list however will be re-sequenced. When their name again reaches the top of the wait list, the second offer of unit will be made.

LHC will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

LHC Policy

When an applicant rejects the final unit offer without good cause, LHC will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal review and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply when LHC opens the waiting list.

5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

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

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

- First, to a current resident of another unit of the same community, or other public housing community under LHC's control, who has a disability requiring the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability requiring the special features of the vacant unit.

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

LHC Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, LHC will offer the unit to a non-disabled applicant.

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

5-II.F. DESIGNATED HOUSING

The Lansing Housing Commission's policies for offering units designated for elderly families only are described in LHC's Designated Housing Plan.

CHAPTER 6

Income and Rent Determinations

[24 CFR 5.609, 5.611, 5.613, 5.615]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. LHC will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and LHC policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and LHC policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require LHC to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and LHC policies for calculating adjusted income are found in Part II.

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

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

5.609 Annual income.

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

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

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

(3) Which are not specifically excluded in paragraph [5.609(c)].

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

Annual Income is the gross amount of Income anticipated to be received by the Family during twelve (12) months after certification or recertification. Gross Income is the amount of income prior to any allowable expenses or deductions and does not include excludable income. Annual Income is used to determine whether or not Applicants are within the applicable income limits. (24 CFR 5.607)

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

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

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

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person

Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

LHC Policy

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

Absent Students

LHC Policy

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

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

LHC Policy

If a child has been placed in foster care, the LHC will verify with the appropriate agency whether and when the child is expected to be returned to the home.

Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

LHC Policy

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

Individuals Confined for Medical Reasons

LHC Policy

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

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

Joint Custody of Children

LHC Policy

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

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the LHC will make the determination based on available documents such as

court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

LHC Policy

If neither a parent nor a designated guardian remains in a household receiving assistance, the LHC will take the following actions.

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

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the LHC will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

LHC is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

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

- An imminent change in circumstances is expected [HCV GB, p. 5-17]

- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

LHC is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows LHC to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where LHC does not determine it is necessary to obtain additional third-party data.

LHC Policy

When EIV is obtained and the family does not dispute the EIV employer data, the LHC will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the LHC will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

The LHC will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If the LHC determines additional information is needed.

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

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

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the

family may present information and documentation to the LHC to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

LHC will verify an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases LHC will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if LHC's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear LHC will not to use EIV quarterly wages to project annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(b)(1)]

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

LHC Policy

For persons who regularly receive bonuses or commissions, LHC will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, LHC will use the prior year amounts. In either case the family may provide, and LHC will consider, a

credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, LHC will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

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

LHC Policy

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

Children's Earnings [24 CFR 5.609(c)(1)]

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

Certain Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]

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

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)

- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]

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

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

LHC Policy

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

LHC defines incremental earnings and benefits as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].

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

End of participation in a training program must be reported in accordance with LHC's interim reporting requirements (see chapter on reexaminations).

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

LHC Policy

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

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

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

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255]

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

Eligibility

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

- Employment of a family member who was previously unemployed for one or more years prior to employment. Previously unemployed includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments,

wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

Calculation of the Disallowance

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

LHC Policy

LHC defines prior income, or prequalifying income, as the family member's last certified income prior to qualifying for the EID.

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

Initial 12-Month Exclusion

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

LHC Policy

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

Second 12-Month Exclusion and Phase-In

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

Lifetime Limitation

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

LHC Policy

During the 48-month eligibility period, LHC will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Individual Savings Accounts

LHC does not offer Individual Savings Accounts for Families who qualify for the earned income disallowance.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

Business Expenses

Net income is “gross income less business expense” [HCV GB, p. 5-19].

LHC Policy

To determine business expenses that may be deducted from gross income, the LHC will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

LHC Policy

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

Capital Indebtedness

HUD regulations do not permit LHC to deduct from gross income the amortization of capital indebtedness.

LHC Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

LHC Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of \$2,000 to help a business get started, the LHC will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

LHC Policy

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

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that LHC include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of

assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of net family assets. This section begins with a discussion of general policies related to assets and then provides HUD rules and LHC's policies related to each type of asset.

General Policies

Income from Assets

LHC generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes LHC to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) LHC believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, LHC can take into consideration past rental income along with the prospects of obtaining a new tenant.

LHC Policy

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

Valuing Assets

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

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

LHC Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal

fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

Lump-Sum Receipts

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

Imputing Income from Assets [24 CFR 5.609(b)(3)]

When net family assets are \$5,000 or less, LHC will include the actual income anticipated to be derived from the assets in annual income. When the family has net family assets in excess of \$5,000, LHC will include the greater of (1) the actual income derived from the assets or (2) the imputed income in annual income

. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

LHC Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, LHC will count the full value of the asset. A

family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

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

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require LHC to count as a current asset any business or family asset disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

LHC may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

LHC Policy

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

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

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

Separation or Divorce

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

LHC Policy

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

Foreclosure or Bankruptcy

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

Family Declaration

LHC Policy

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

Types of Assets

Checking and Savings Accounts

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

LHC Policy

In determining the value of a checking account, LHC will use the average monthly balance for the last six months.

In determining the value of a savings account, LHC will use the current balance.

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

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

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

LHC Policy

In determining the market value of an investment account, LHC will use the value of the account on the most recent investment report.

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

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

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

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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

LHC Policy

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

Trusts

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

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, LHC must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [Housing Choice Voucher Guide Book ("HCV GB", p. 5-25)].

LHC Policy

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

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

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

PHA Policy

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

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

LHC Policy

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

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Treatment of Overpayment Deductions from Social Security Benefits

LHC must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2008-40].

LHC Policy

The LHC will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic

payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

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

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

Covered Families

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

Imputed Income

When a welfare agency imposes a sanction reducing a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement LHC must include “imputed” welfare income in annual income. The PHA must request the welfare agency inform LHC when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

For special procedures related to grievance hearings based upon the PHA’s denial of a family’s request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

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

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Alimony and Child Support

LHC must count alimony or child support amounts awarded as part of a divorce or separation agreement.

LHC Policy

LHC shall count court-awarded amounts for alimony and child support unless LHC verifies (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a resident family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

LHC Policy

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

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

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]

- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].

LHC Policy

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

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

- (q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
- (r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Full-Time College Students of Non-Parental Guardian Households

Determination of Eligibility

An Applicant must meet income eligibility requirements as established by Section 3(a)(1) and 8(o)(4) of the U.S. Housing Act of 1937 and implementing regulations at 24 CFR 960.201 and 982.201. The following are required eligibility and verification standards for the admission of Full-Time College Students of Non-Parental/Guardian Households.

- The student must be of legal age or an emancipated minor under the Michigan law.
- The student must be income eligible for admission to the public housing program (24 CFR 960.201)

Verification of Eligibility:

- LHC will obtain proof of age such as a valid driver's license or identification card issued by a federal, state or local agency, identification issued by a medical insurance company, birth certificate, or other form of identification as determined by LHC.
- LHC will verify all sources of reported household member income, in accordance with 24 CFR 960.259.
- Each college student within a household must provide a written/signed certification that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and the amount of support.
- LHC will verify, via independent third-party, all amounts anticipated to be received outside of the Household member during the twelve (12) month period following admission and the effective date of the annual Recertification.
- The college student will submit evidence of separate households from his/her parents or legal guardians for a least one-year prior to

applying to LHC for housing. LHC will review/verify the address information that predates the student's application by a minimum of one (1) year.

- The college student must not be claimed as a dependent by his/her parent(s) or legal guardian(s) on their federal tax return. LHC may request a copy of the college student's 1040EZ, 1040A or 1040 tax returns for the prior year. The college student must supply any information that LHC deems necessary to verify eligibility. In all instances, a household must be income eligible and meet any and all eligibility criteria.

a) Adjusted Income

In accordance with the Appropriations Act, the portion of any athletic scholarship assistance available for housing costs must be verified by LHC with the third-party income source and included in the determination of Household member adjusted income. Currently, the full amount of financial assistance from federal and state grants and/or loans, academic scholarships, and work study program wages paid directly to the student or the educational institution is not included in the determination of annual or adjusted income (24 CFR 5.609©(6)).

b) Denial of Admission

LHC must deny housing assistance to persons receiving athletic scholarship assistance, but may only do so for those persons receiving an athletic scholarship with a specified amount available for housing costs or one that allows for a portion of the scholarship to be used towards housing costs.

The specified amount or portion of the athletic scholarship available for housing costs must exceed \$5,000 annually for LHC to deny the student admission, unless local circumstances warrant a higher or lower threshold.

Deviations from the standard threshold (\$5,000) must also be documented in the Resident's file and will be consistently applied among Applicants and Residents.

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require LHC to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:

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

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

Anticipating Expenses

LHC Policy

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

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

6-II.B. DEPENDENT DEDUCTION

A deduction of \$480 is taken for each dependent [24 CFR 5.611(a)(1)]. Dependent is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An elderly family is a family whose head, spouse, co-head, or sole member

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

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of Medical Expenses

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

LHC Policy

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

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, non cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)

Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

Families That Qualify for Both Medical and Disability Assistance Expenses

LHC Policy

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

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

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

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

Earned Income Limit on the Disability Assistance Expense Deduction

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

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

LHC Policy

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

When LHC determines the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [Public Housing Occupancy Guide Book (“PH Occ GB”, p. 124)].

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the PH Occupancy Guidebook as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

LHC Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus is eligible. In the case of an apparatus specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

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

LHC Policy

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

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

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

Payments to Family Members

No disability expenses may be deducted for payments to a member of a resident family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the resident family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses

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

LHC Policy

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

Families That Qualify for Both Medical and Disability Assistance Expenses

LHC Policy

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

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

6-II.F. CHILD CARE EXPENSE DEDUCTION

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

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

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

LHC Policy

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

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

Seeking Work

LHC Policy

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

Furthering Education

LHC Policy

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

Being Gainfully Employed

LHC Policy

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

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must be necessary and reasonable. However, when child care enables a family member to work,

the deduction is capped by “the amount of employment income included in annual income” [24 CFR 5.603(b)].

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

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

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [Housing Choice Voucher Guide Book (“HCV GB,” p. 5-30)].

LHC Policy

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

Eligible Child Care Expenses

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

Allowable Child Care Activities

LHC Policy

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

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

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities not eligible for consideration, LHC will prorate the costs and allow only the portion of the expenses attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the

calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

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

LHC Policy

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

To establish the reasonableness of child care costs, LHC will use the schedule of child care costs from the local welfare agency. Families may present, and LHC will consider, justification for costs exceeding typical costs in the area.

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

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

The Form HUD-50058 Instruction Booklet states that the maximum allowable amount for total permissive deductions is less than \$90,000 per year.

LHC Policy

The LHC has opted not to use permissive deductions. A CONSIDERATION IN VIEW OF THE CHANGES IN TANF AND THE ECONOMY IN DETROIT, THIS COULD BE AN INCENTIVE TO ENCOURAGE RESIDENTS TO GO TO WORK..

PART III: CALCULATING RENT

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

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this

calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by LHC.

TPP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$75.00 that is established by the PHA

LHC has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Welfare Rent [24 CFR 5.628]

LHC Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

LHC Policy

The minimum rent for LHC is \$75.00.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134] LHC's have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TPP and mandatory deductions. At the discretion of LHC, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

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

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

LHC Policy

The LHC shall provide for each family residing in a public housing unit to elect annually whether the rent paid by such family shall be 1) determined based on family income, or 2) the flat rent. LHC may not at any time fail to provide both such rent options for any public housing unit owed, assisted or operated by LHC.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

LHC Policy

The LHC chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(3)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

LHC Policy

The LHC will make utility reimbursements to the family.

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

LHC has established a minimum rent of \$75.00. LHC will grant an exemption from payment of the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

LHC Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

LHC Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or resident-paid utilities.

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

LHC Policy

In order to qualify under this provision, a family must demonstrate they will not receive unemployment compensation or other income

- (4) A death has occurred in the family.

LHC Policy

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

- (5) The family has experienced other circumstances determined by LHC.

LHC Policy

LHC has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, LHC must suspend the minimum rent requirement beginning the first of the month following the family's request.

LHC then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

LHC Policy

LHC defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

LHC may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

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

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

LHC Policy

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

LHC will make the determination of hardship within 30 calendar days.

No Financial Hardship

If LHC determines there is no financial hardship LHC will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon LHC's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

LHC Policy

LHC will require the family to repay the suspended amount within 30 calendar days of LHC's notice a hardship exemption has not been granted.

Temporary Hardship

If LHC determines a qualifying financial hardship is temporary, LHC must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay LHC the amounts suspended. HUD requires LHC to offer a reasonable repayment agreement, on terms and conditions established by LHC. LHC may also determine circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon LHC's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

LHC Policy

LHC will enter into a repayment agreement in accordance with LHC's repayment agreement policy only after all attempts have been made to collect the amount due during the 30 day period. (see, Chapter 16).

Long-Term Hardship

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

LHC Policy

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

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

6-III.C. UTILITY ALLOWANCES

If the cost of utilities, excluding telephone, is not included in the Resident's rent, a Utility Allowance will be deducted from the TTP. The Utility Allowance is intended to help defray the cost of utilities not included in the rent. The allowances are based on the monthly cost of reasonable consumption of utilities in an energy conservative household, not on a Family's actual consumption.

When the Utility Allowance exceeds the Family's TTP, LHC will provide a Utility Reimbursement Payment for the Family each month. The utility reimbursement may be made out to the utility provider or a check may be made out directly to the Resident.

Resident Paid Utilities

The following requirements apply to Residents living in developments with Resident paid utilities:

- When the supplier of utilities offers a "budget" or level payment plan, LHC shall suggest the Resident pay his/her bills according to this plan. If the Family is receiving public assistance, LHC will encourage the Family to consider a vendor payment plan for rent and utilities.
- When a Resident makes an application for utility service in his/her own name, he or she must sign a third party notification agreement so LHC will be notified if the Resident fails to pay the utility bill resulting in shut-off.
- If a Resident or Applicant is unable to get utilities connected because of a previous balance owed to the utility company, the Resident/Applicant will not be permitted to move into a unit with Resident paid utilities. This may mean a current Resident cannot transfer or an Applicant cannot be admitted to a unit with Resident paid utilities.
- Paying the utility bill is the Resident's obligation under the lease. Failure to pay utilities is grounds for eviction.

EXCESS UTILITY PAYMENTS

Residents in units where LHC pays the utilities may be charged for excess utilities if appliances or equipment other than those provided by LHC are used in the unit. This charge shall be applied as specified in the lease. [24CFR 966.4(b)(2)]

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]

On request from a family, LHC's must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a

reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

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

The tenant rent calculations must reflect any changes in LHC's utility allowance schedule [24 CFR 960.253(c)(3)].

LHC Policy

Unless the LHC is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

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

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. LHC must prorate the assistance provided to a mixed family. LHC will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, LHC must:

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

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

LHC Policy

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

For policies related to the establishing public housing maximum rent see Chapter 16.

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

Flat Rents [24 CFR 960.253(b)]

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

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

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and reviews of flat rents are contained in Chapter 16.

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

Once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document flat rents were offered to families under the methods used to determine flat rents for the PHA.

LHC Policy

LHC will offer to a family the choice between flat and income-based rent upon admission and upon each subsequent annual reexamination.

LHC will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the resident file as part of the admission or annual reexamination process.

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

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If LHC determines a financial

hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

LHC Policy

Upon determination a financial hardship exists, LHC will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

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

LHC Policy

LHC considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [Public Housing Occupancy Guide Book ("PH Occ GB"), p. 137].

Change in Flat Rents

LHC Policy

Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit [PH Occ GB, pp. 137-138].

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

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

Flat Rents and Mixed Families [A&O FAQs]

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

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

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

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.

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

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

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of

cash or assets invested in the operation by the family;

- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);
- (6) Welfare assistance payments.

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

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

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

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

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

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

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

(8) All regular pay, special pay and allowances of a member of the Armed

Forces (except as provided in paragraph (c)(7) of this section)

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

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

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

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

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

(ii) Conditioned on participation in work experience or community service (or any

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

other work activity under 261.30 of this chapter).

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

(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:

- (i) Are designed to deal with a specific crisis situation or episode of need;
- (ii) Are not intended to meet recurrent or ongoing needs; and
- (iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
(ii) Amounts received by a person with a disability that are disregarded for a limited

time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

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

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

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

participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which

the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

- a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
- b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
- c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L-94-540, 90 Stat. 2503-04);

h) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the

Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

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EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

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EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

24 CFR 960.255 Self-sufficiency incentive—Disallowance of increase in annual income.

(a) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance,

but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

(b) Disallowance of increase in annual income.

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income (as defined in 5.609 of this title) of a qualified family any increase in income of the family member as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is

limited to a lifetime 48 month period. It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month period starting from the initial exclusion under paragraph (b)(1) of this section.

(c) Inapplicability to admission. The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

(d) Individual Savings Accounts. As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

- (1) The PHA must advise the family that the savings account option is available;
- (2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been

included in tenant rent payable to the PHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

- (i) Purchasing a home;
- (ii) Paying education costs of family members;
- (iii) Moving out of public or assisted housing; or
- (iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The PHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;

(5) At least annually the PHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency

requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

- (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
- (iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this

information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an

escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include

the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction

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Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2010-19]

INTRODUCTION

This Chapter explains LHC's procedures and standards for verification of preferences, income, assets, allowable deductions, Household status, and changes in Household members. LHC will ensure that proper authorization for release of information is always obtained from the Household before making verification inquiries.

LHC must verify all information that is used to establish the household's eligibility and level of assistance and is required to obtain the household's consent to collect the information. Applicants and residents must cooperate with the verification process as a condition of receiving assistance. LHC must not pass on the cost of verification to the household.

LHC will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary LHC policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including household information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by LHC.

Part I: General Verification Requirements

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]

The household members must supply any information LHC determines is necessary to administrate the program and must consent to LHC verification of that information [24 CFR 960.259(a)(1)].

Consent Forms

All adult applicants and residents are required to sign form HUD-9886, Authorization for

Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the household's consent only for the specific purposes listed on the form. HUD and LHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult household members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult household members must sign other consent forms as needed to collect information relevant to the household's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any household member who is required to sign a consent form fails to do so, LHC will deny admission to applicants and terminate the lease of residents. The household members may request a hearing in accordance with LHC's grievance procedures.

COMPUTER MATCHING

If HUD receives information from Federal tax return data indicating a discrepancy in the income reported by the Household Member, HUD will notify the Household Member of the discrepancy and advise the household member that this information will be provided to LHC. The Household member is also required to disclose this information to LHC (24 CFR 5.240). HUD will send LHC a list of families who have received "income discrepancy" letters.

Within fourteen (14) calendar days of receiving a notice of an income discrepancy letter from LHC or HUD, the Household member must disclose the original letter to LHC.

When the Household member furnishes the letter to LHC, LHC will verify the information. The Household member then has thirty (30) calendar days to provide any information required by LHC to investigate the alleged income discrepancy. Failure to comply with the requirements of this section shall be cause for termination of the lease.

7-I.B OVERVIEW OF VERIFICATION REQUIREMENT'S

LHC will verify information through the following five (5) methods, in the following order:

- **Enterprise Income Verification (EIV) System (Up-front verification):** The highest level of third-party verification. Uses computer matching agreements with State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail, fax or in person. (Mandatory as of January 31, 2010).
- **Third-Party Written:** High level of third-party verification. (Mandatory if up-front income verification data differs by more than \$200.00 from Resident

reported information).

- **Third-Party Oral:** Medium level of third-party verification. (Mandatory if written third-party verification is not available). LHC may use telephone verifications.
- **Review of Documents:** Medium to Low level of third-party verification. LHC will review documents provided by the Applicant, when relevant, to substantiate the claim of an Applicant or Resident.
- **Self-Certification by Notarized Statement:** Low level of third-party verification (Used as a last resort). A notarized statement from the Applicant will be accepted when no other form of verification is available.

If third-party verification is not received directly from the source, LHC will include documentation in the file explaining why the third-party verification was impossible to obtain and another method was used.

LHC will not delay the processing of an Applicant beyond fourteen (14) calendar days because a third-party information provider does not return the verification in a timely manner.

Requirements for Acceptable Documents

LHC Policy

Any documents used for verification must be the original (not photocopies), deemed by LHC as an authentic document, and generally must be dated within 120 days of the date they are provided to LHC. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

LHC staff member who views the original document must make a photocopy, Initial and date stamp the documentation as proof of viewing the original document.

Any household self-certifications must be made in a format acceptable to LHC and must be signed in the presence of a LHC representative or LHC notary public.

For Applicants, verification may not be more than 120 calendar days old at the time of a unit offer. For Residents, verifications are valid for 120 calendar days from the date of receipt.

Regardless of these timeframes, Criminal History Reports will be useable as a valid verification for no longer than 120 calendar days.

ITEMS TO BE VERIFIED

LHC will verify information required to determine the Household members program compliance. The information to be verified includes, but is not limited to, the following:

- All income not specifically excluded by HUD regulations.
- Zero-income status of household. Zero income Applicants and Residents will be required to complete a Household member expense form at each certification or recertification interview. (Using ZIP Procedures and Forms).
- Full-time student status including high school students who are 18 or over.
- Current assets including assets disposed of for less than fair market value in the preceding two (2) years.
- Childcare expense where it allows an adult Household member to be employed or to further his/her education.
- Total medical expenses of all Household members in the household whose head of household or spouse is elderly or disabled.
- Disability assistance expenses consisting of only those costs associated with attendant care or auxiliary apparatus, which allows an adult Household member to be employed.
- Legal identity.
- U.S. citizenship/eligible immigrant status.
- Social Security numbers for all Household members six (6) years of age or older.
- Preference status.
- Familial/marital status when needed for determining the head of household or spouse.
- Disability for determination of preferences, allowances or deductions.
- Program compliance.
- Need for a live-in aide.

File Documentation

LHC must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that LHC has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

LHC Policy

The LHC will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing the adjusted income or income-based rent determination

When the LHC is unable to obtain third-party verification, the LHC will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2010-19].

7-I.C UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to LHC's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to LHC.

There may be legitimate differences between the information provided by the household and UIV-generated information. If the household disputes the accuracy of UIV data, no adverse action can be taken until LHC has independently verified the UIV information and the household has been granted the opportunity to contest any adverse findings through LHC's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for resident families. HUD requires the PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

EIV Income Reports

The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

LHC Policy

LHC will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to household-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described

above. Policies for resolving discrepancies between income reports and household-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.

When LHC determines through income reports and third-party verification that a household has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Discrepancy Reports

The EIV discrepancy report is a tool for identifying families that may have concealed or underreported income. Data in the discrepancy report represents income for past reporting periods and may be between 6 and 30 months old at the time reports are generated.

Families that have not concealed or underreported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new household members.

Income discrepancies may be identified through use of the EIV “Income Discrepancy Report” or by review of the discrepancy tab for the individual household.

LHC Policy

When LHC determines that a resident appearing on the Income Discrepancy Report has not concealed or underreported income, the resident's name will be placed on a list of “false positive” reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed.

LHC will review the EIV discrepancy tab during processing of annual and interim reexaminations.

When it appears that a household may have concealed or underreported income, LHC will request independent written third-party verification of the income in

question.

When LHC determines through file review and independent third-party verification that a household has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2010-3].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

LHC Policy

LHC will identify residents whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis. LHC will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the resident. When LHC determines that discrepancies exist as a result of LHC errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Upfront Income Verification Using Non-HUD Systems

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

LHC Policy

LHC will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

The Work Number

Internal Revenue Service (IRS) Letter 1722

Credit Bureau Association (CBA) Credit Reports

Michigan Department of Human Services (DHS)

Social Security Administration Award Letter

7-I.D THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the household. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the household or received from a third-party source.

Examples of acceptable resident-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

LHC is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

LHC may reject documentation provided by the household if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

LHC Policy

Third-party documents provided by the household must be dated within 120 days of LHC request date.

If LHC determines that third-party documents provided by the household are not acceptable, LHC will explain the reason to the household and request additional documentation.

As verification of earned income, LHC is required to obtain at a minimum, 2 consecutive pay stubs prior to determine annual income from wages.

Written Third-Party Verification Form

When upfront verification is not available and the household is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of household-

provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income (\$2400 annually or more) and there is no UIV or resident-provided documentation to support the income discrepancy.

LHC may mail, fax, or e-mail third-party written verification form requests to third-party sources.

LHC Policy

LHC will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by LHC.

Third-Party Oral Verification

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third party oral verifications will be completed if LHC does not receive a response for third party verification after 2 mailings or 14 calendar days have passed.

LHC will document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

LHC Policy

In collecting third-party oral verification, LHC staff will record, on LHC third-party oral verification form, the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification LHC will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 2010-19]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the household's total resident payment.

LHC Policy

If the household cannot provide original documents, a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the household.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

LHC requires original birth certificates, driver's licenses, social security cards, and other identification cards.

Imputed Assets

LHC may accept a self-certification from the household as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

LHC Policy

LHC will accept a self-certification from a household as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. LHC will accept faxed documents.

If third-party verification is received after documents have been accepted as provisional verification and there is a discrepancy, LHC will utilize the third-party verification.

7-I.E. SELF-CERTIFICATION

Self-certification, or "resident declaration," is used as a last resort when LHC is unable to obtain third-party verification.

When LHC relies on a resident declaration for verification of income, assets, or expenses, the self-certification form must show proof of the three attempts to obtain the third-party verification.

LHC Policy

When information cannot be verified by a third party or by review of documents, household members will be required to submit self-certifications attesting to the accuracy of the information they have provided to LHC.

LHC may require a household to certify that a household member does not receive a particular type of income or benefit.

Self-certification means a notarized statement made under penalty of perjury.

All self-certifications must be signed in the presence of a LHC representative.

PART II: VERIFYING FAMILY INFORMATION

7-II.A VERIFICATION OF LEGAL IDENTITY

LHC requires Applicants to furnish verification of legal identity for all Household members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a Household is illegible or otherwise questionable, more than one of these documents may be required.

Documents considered acceptable for the verification of legal identity of minors may be one (1) or more of the following:

If none of these documents can be provided, a third-party who knows the person may, at LHC's discretion, provide verification.

LHC Policy

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Affidavit of Parentage, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Affidavit of Parentage Adoption papers Custody agreement Health and Human Services ID School records

Legal identity will be verified on an as needed basis

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2010-3]

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

LHC must accept the following documentation as evidence of the social security number:

An original SSN card issued by the Social Security Administration (SSA)

An original SSA-issued document, which contains the name and SSN of the individual

An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual

Such other evidence of the SSN as HUD may prescribe in administrative instructions

If a Household member cannot produce a Social Security card, only the documents listed below showing his/her Social Security number may be used for verification. The Household is also required to certify, in writing, that the document(s) submitted in lieu of the Social Security card is/are complete and accurate:

- A valid driver's license
- Identification card issued by a Federal, state or local agency
- Identification card issued by a medical insurance company or provider including Medicare and Medicaid
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements or pay stubs
- Bank statements
- IRS Form 1099
- Benefit award letter from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records (real estate, tax notices, marriage, divorce, judgment or bankruptcy records)
- Verification of benefits or Social Security number from the Social Security Administration

- Add DD214 –may include Social Security

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

LHC Policy

LHC will explain the reasons the document is not acceptable to the applicant or resident and request that the individual obtain and submit acceptable documentation of the SSN to LHC within 90 days.

When the resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. LHC may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if LHC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period LHC is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

In the case of an individual at least 62 years of age, LHC may grant an extension for an additional sixty (60) calendar days for a total of 120 calendar days. If, at the end of this time, the elderly individual has not provided documentation, the Household may be evicted or not admitted.

LHC Policy

LHC will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the household, or other emergency.

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

LHC Policy

LHC will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," LHC should remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

LHC Policy

Once an individual's status is classified as "verified" in HUD's EIV system, LHC will remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

7-II.C. DOCUMENTATION OF AGE

A affidavit of parentage or other official record of birth is the preferred form of age verification for all household members. For elderly household members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

LHC Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, LHC will require the household to submit other documents that support the reported age of the household member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and residents are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility Chapter 3.

LHC Policy

Self-certification will normally be considered sufficient verification of Household relationships. In cases where reasonable doubt exists, the Household will be asked to provide verification.

The following verifications will be required if self-certification is insufficient:

Verification of relationship:

- Official identification showing name
- Birth certificates
- Baptismal certificates

Verification of guardianship is:

- Court-ordered appointment
- Affidavit of parent
- Verification from social services agency
- School records

Evidence of an established Household relationship:

- Joint bank accounts or other shared financial transactions
- Leases or other evidence of prior cohabitation
- Credit reports showing relationship

Marriage

LHC Policy

Verification of marriage status is a marriage certificate.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

To verify the spouse for income determination purposes:

- Verification of divorce status will be by certified or true copy of the divorce decree signed by a court officer.
- Verification of separation will be by certified or true copy of the separate maintenance decree or other records.
- Verification of marriage status is a marriage certificate.

Separation or Divorce

LHC Policy

Verification of divorce status will be by certified or true copy of the divorce decree signed by a court officer.

Verification of separation will be by certified or true copy of the separate maintenance decree or court-ordered maintenance.

If no court document is available, documentation from a community-based agency will be accepted.

Verification of Permanent Absence of Adult Member

Verification of a Permanent absence of adult member

LHC Policy

If the Household reports an adult member who was formerly a member of the household is permanently absent, LHC will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separate maintenance proceedings.
- Personal protection/restraining order obtained by one Household member against another.
- Proof of another home address, such as utility bills, cancelled rent checks, driver's license, or lease, is available.
- Statements from other agencies such as social services that the adult Household member is no longer living in the unit.
- If no other proof can be provided, LHC will accept a notarized statement from the Household.
- If the adult Household member is incarcerated, a document from the court or prison will be obtained stating how long s/he will be incarcerated.

Split Households: Domestic Violence

Verification of domestic violence when assessing Applicant split households. Includes a statement, on a form prepared by LHC, signed, under penalty of perjury, by an employee, agent or volunteer of a victim services provider, an attorney or a medical professional from whom the victim has sought assistance in addressing domestic violence or the effects of the abuse, that the incident or incidents in question are bona fide incidents of abuse. The victim of domestic violence, dating violence or stalking must also sign the statement and identify the alleged perpetrator of the domestic violence.

Verification of Change in Household Composition

LHC may verify changes in Household composition, either reported or unreported, through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or driving records, and other sources.

Foster Children and Foster Adults

LHC Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the household is required.

7-II.E. VERIFICATION OF STUDENT STATUS

LHC Policy

The LHC requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head, or
- The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

LHC must verify the existence of a disability in order to allow certain income disallowances and deductions from income. LHC is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. LHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If LHC receives a verification document that provides such information, LHC will not place this information in the resident file. Under no circumstances will LHC request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.hhs.gov

LHC may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Household Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

LHC Policy

For household members claiming disability who receive disability payments from the SSA, LHC will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, LHC will request a current (dated within the last 120 days) SSA benefit verification letter from each household member claiming disability status. If a household member is unable to provide the document, LHC will ask the household to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the household receives the benefit verification letter, it will be required to provide the letter to LHC.

Household Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

LHC Policy

A Verification of Disability form will be sent to the knowledgeable professional for household members claiming they meet HUDs definition of disability who do not receive SSI or other disability payments from the SSA. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the household member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

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

U.S. Citizens and Nationals

HUD requires a declaration for each household member who claims to be a U.S. citizen or national. The declaration must be signed personally by any household member 18 or older and by a guardian for minors.

LHC may request verification of the declaration by requiring presentation of a birth certificate or affidavit of parentage, United States passport or other appropriate documentation.

LHC Policy

Household members who claim U.S. citizenship or national status will not be required to provide additional documentation unless LHC receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the household began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents household members must provide.

PHA Verification [HCV GB, pp 5-3 and 5-7]

For household members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

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

The PHA will follow all USCIS protocols for verification of eligible immigration status.

Non-citizen with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the Household. LHC verifies the status through the INS SAVE system. If this primary verification fails to verify status, within fourteen (14) consecutive LHC will request that the INS conduct a manual search.

Household members who do not claim to be citizens or eligible immigrants must be listed on a statement of non-contending Household members signed by the head of household or spouse.

- Non-citizen students or student visas are ineligible Household members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they shall not sign a declaration but will be listed on the statement of non-contending members.

Failure to Provide. If an Applicant or Resident Household member fails to sign required declarations and consent forms or provide documents as required, they must be listed as an ineligible Household member. If the entire Household fails to provide and sign as required, the Household may be denied tenancy or terminated for failure to provide the required information.

Time of verification. For Applicants, verification of U.S. citizenship/eligible immigrant status will occur at the same time as verification of other factors of eligibility. For Resident Families, it is done at the first regular recertification after June 19, 1992. For Household members added after other members have been verified, the verification occurs at the first Recertification after the new Household member moves in. Once verification has been completed, it need not be repeated except that, in the case of port-in Families, if the initial PHA does not supply the documents, LHC must conduct the determination.

Extensions of Time to Provide Documents. LHC will grant an extension of fourteen (14) calendar days for Families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration. Only the following documents are acceptable unless changes are published in the Federal Register:

- Resident Alien Card (I-551)

- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows the individual's entitlement has been verified.

A birth certificate is not acceptable verification of eligible immigration status.
All verification documents must be kept five (5) years.

LHC will verify the eligible immigration status of a Household member at any time such eligibility is in question, without regard to the position of the Household on the waiting list.

7-II.H. VERIFICATION OF PREFERENCE STATUS

[24 CFR 5.410, 5.415, 5.430]

LOCAL PREFERENCES:

- A foster care ward age 18 or older approved for the Independent living program South Washington one bedroom units only
- **Federally declared Natural Disaster Preference** which occurred on or after July 1, 2005 as designated by Executive Order of the President of the United States. A Household that claims it is being or has been displaced due to such a disaster must provide written verification by a service agency such as the Red Cross. This preference takes precedence over all other preference categories.
- **Working preference** this preference is available for Families with at least one (1) member who is employed. LHC requires a statement from the employer.
- **Elderly/Displaced preference** verification of amount received from Social Security, Supplemental Security Income, railroad Retirement, or other government pension or periodic payment received by the Household.
- **Victims of Domestic Violence** Families who claim they are being or have been displaced due to domestic violence:
 - a statement, on a form prepared by LHC, signed, under penalty of perjury, by an employee, agent or volunteer of a victim services provider, an attorney or a medical professional from whom the victim

has sought assistance in addressing domestic violence or the effects of the abuse, that the incident or incidents in question are bona fide incidents of abuse. The victim of domestic violence must also sign the statement and identify the alleged perpetrator of the domestic violence; or a federal, state, or local police or court record from which LHC can ascertain the facts and identify the alleged perpetrator. The victim shall provide such certification within 14 business days after LHC's written request for the certification. LHC may extend the 14 day deadline for an additional 14 days at its discretion.

- Verification from a landlord or other source that the abuser still resides at the unit.

Part III: Verifying Income and Assets

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the household member must be verified. This part provides LHC policies that supplement the general verification procedures specified in Part I of Chapter 6.

7-III.A. EARNED INCOME

Employment Income Tips

LHC Policy

Unless tip income is included in a household member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

Verification Process: LHC will no longer verify food assistance, income that is 100 percent excluded such as Foster Care Payments, income from Live-in Aids, or bank accounts that participants self-certify hold a balance of under \$5, 000. The LHC will also have the option to use the information wages available on HUD's Enterprise Verification System as long as four (4) quarters are available.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

In order to verify the net income from a business, LHC will view IRS and financial documents from prior years and use this information to anticipate the income for the next twelve (12) months.

LHC Policy

Business owners and self-employed persons will be required to provide:

If an audit was conducted, an audited financial statement for the previous fiscal year. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

LHC will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination LHC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a household member has been self-employed less than three (3) months, LHC will accept the household member's certified estimate of income and schedule an interim reexamination in three (3) months. If the household member has been self-employed for three (3) to twelve (12) months LHC will require the household to provide documentation of income and expenses for this period and use that information to project income.

Child Care Business

If an Applicant/Resident is operating a licensed day care business, income will be verified as with any other business.

If an Applicant/Resident is operating a "cash and carry" operation, whether licensed or not, LHC will require the Applicant/Resident to complete a form for each customer giving the name of person(s) whose child(ren) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the Household member has filed a tax return, the Household member will be required to provide it.

If childcare services were terminated, a third-party verification will be sent to the parent whose child was cared for.

LHC will conduct interim re-certifications every 120 calendar days and require the Resident to provide a log with the information about customers and income.

7.III-C PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security, Pensions, Supplementary Security Income(SSI), Disability Income

LHC Policy

To verify the SS/SSI benefits of applicants, LHC will request a current (dated within the last 120 days) SSA benefit verification letter from each household member who receives social security benefits. If a household member is unable to provide the document, LHC will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the household to request one by calling SSA at 1-800-772-1213. Once the household has received the original benefit verification letter, it will be required to provide the letter to LHC.

To verify the SS/SSI benefits of residents, LHC will obtain information about social security/SSI benefits through HUD's EIV system, and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, LHC will request a current SSA benefit verification letter from each household member that receives social security benefits. If a household member is unable to provide the document, LHC will help the resident request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the household to request one by calling SSA at 1-800-772-1213. Once the household has received the benefit verification letter, it will be required to provide the letter to LHC

Recurring gifts

The Household members must furnish a notarized statement on the approved LHC form, which contains the following information:

- The person who provides the gift;
- The value of the gift;
- The regularity (dates) of the gift; and
- The purpose of the gift.

7.III-D. ALIMONY AND CHILD SUPPORT

LHC POLICY: The way LHC will seek verification for alimony and child support differs depending on whether the household declares that it receives regular payments.

If the household declares that it **receives regular payments**, verification will be sought in the following order. 12-month history report printed out by Friend of the Court Agency

- Copy of a separate maintenance or settlement agreement or a divorce decree stating amount and type of support and payment schedule;
- Copy of latest check and/or payment stubs from the Friend of the Court (LHC will record the date, amount, and number of the check);
- A notarized letter from the person paying the support; or
- Household member's self-certification of amount received and of the likelihood of support payments being received in the future or that support payments are not being received.

If the household declares that it **receives irregular or no payments**, in addition to the verification process listed above, the household must provide evidence that it has taken all reasonable efforts to collect amounts due.

- A statement from the agency responsible for enforcing payments to show that the Household has filed for enforcement;
- A notarized affidavit from the Household indicating the amount(s) received; or
- A written statement from an attorney certifying that a collection or enforcement action has been filed.

Note: Families are not required to undertake independent enforcement action.

7.III-E. ASSETS AND INCOME FROM ASSETS

1. Household Member Assets

LHC will require the information necessary to determine the current cash value, i.e. the net amount the Household would receive if the asset were converted to

cash:

- Verification forms, letters, or documents from a financial institution or broker.
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- Quotes from a stockbroker or realty agent as to net amount the Household would receive if it liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be deduced from the assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.
- The Household's notarized statement describing assets or cash held at the Household's home or in safe deposit boxes.

2. Assets Disposed of for Less than Fair Market Value (FMV) during the two (2) years preceding the effective date of certification or recertification.

Assets Disposed of for Less than Fair Market Value

The household must certify whether any assets have been disposed of for less than fair market value in the preceding two years. LHC needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

LHC Policy

LHC will verify the value of assets disposed of only if:

LHC does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the household in the certification appears obviously in error.

Example 1: An elderly resident reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A household member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000.

Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7.III-F NET RENTAL INCOME FROM PROPERTY

The household member must provide:

- IRS Form 1040 with Schedule E (Rental Income).
- Copies of the latest rent receipts, leases, or other documentation of rent amounts.
- Documentation of allowable operating expense of the property, tax statements, insurance invoices, and bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
- A lessee's written statement verifying rent payments to the Household member and the Household member's notarized statement as to net income realized.

7.III-G. RETIREMENT ACCOUNTS

LHC Policy

LHC will accept written third-party documents supplied by the household as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the household member's retirement status.

Before retirement, LHC will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, LHC will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, LHC will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7.III-H INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

LHC must obtain verification for income exclusions only if, without verification, LHC would not be able to determine whether the income is to be excluded. For example: If a household's 16 year old has a job at a fast food restaurant, LHC will confirm that LHC records verify the child's age but will not require third-party verification of the amount earned. However, if a household claims the earned income disallowance for a source of income, both the source and the income must be verified.

LHC Policy

LHC will reconcile differences in amounts reported by the third party and the household only when the excluded amount is used to calculate the household's rent (as is the case with the earned income disallowance). In all other cases, LHC will report the amount to be excluded as indicated on documents provided by the household.

7.III-I ZERO ANNUAL INCOME STATUS

Families claiming to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, public assistance, SSI, etc. are not being received by the household.

LHC will perform Zero Income Interviews Quarterly using the ZIP Procedure.

LHC will request information from the State and IRS if needed.

LHC may check records of other entities that have information about income sources of Applicants/Residents.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled household deductions require only that LHC verify that the household members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. LHC will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or co-head of the household and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Household Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. LHC will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7.IV-B MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

LHC Policy

Medical expenses will be verified through:

Written third-party documents provided by the household, such as pharmacy printouts or receipts.

LHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. LHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the household is unable to provide acceptable documentation.

If third-party or document review is not possible, written household certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, LHC must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62 or a person with disabilities. LHC will verify that the

household meets the definition of an elderly or disabled household provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for LHC's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

LHC Policy

The household will be required to certify that the medical expenses are not paid or reimbursed to the household from any source.

Expenses Incurred in Past Years

LHC Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, LHC must verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the household's annual income in past years
- LHC will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

7.IV-C DISABILITY ASSISTANCE EXPENSES

In all cases:

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

- Written certification from a reliable, knowledgeable professional that the

person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another Household member to be employed.

- The Household's certification as to whether it receives reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Amount of Expense

For attendant care:

LHC Policy

LHC will accept written third-party documents provided by the household.

If household-provided documents are not available, LHC will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a statement of the number of hours the care is needed.
- Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the Household or agency or copies of canceled checks the Household used to make those payments or stubs from the agency providing the services.
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next twelve (12) months.
- Copies of payment agreements or the most recent invoice that verifies payments made on outstanding medical bills that will continue over all or part of the next twelve (12) months.
- Receipts or other records of medical expenses incurred during the past twelve (12) months that can be used to anticipate future medical expenses. LHC may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.

For auxiliary apparatus:LHC Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the household, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

A third-party verification form signed by the provider, if household-provided documents are not available.

A written household certification of estimated apparatus costs for the upcoming 12 months if third-party or document review is not possible.

In addition, LHC must verify that:

- The household member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a household member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Household Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. LHC will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Household Member(s) Permitted to Work

LHC must verify that the expenses claimed actually enable a household member, or members, (including the person with disabilities) to work.

LHC Policy

LHC will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another household member, or members, to work (See 6-II.E.). This documentation may be provided by the

household.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the household must certify that the disability assistance expense frees a household member, or members (possibly including the household member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

LHC Policy

The household will be required to certify attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the household from any source.

7.IV-D. CHILDCARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, LHC must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a household member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. LHC will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

LHC Policy

The household will be required to certify that the child care expenses are not paid by or reimbursed to the household from any source.

Pursuing an Eligible Activity

LHC must verify that the household member(s) that the household has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

LHC Policy

Information to be Gathered

LHC will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the household member(s) to the child, and any special needs of the child that might help determine which household member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible LHC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases LHC will request household-provided verification from the agency of the member's job seeking efforts to date and require the household to submit to LHC any reports provided to the other agency.

In the event third-party verification is not available, LHC will provide the household with a form on which the household member must record job search efforts. LHC will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

LHC will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the household.

Gainful Employment

LHC will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more household

members could be permitted to work, the work schedules for all relevant household members may be verified. The documentation may be provided by the household.

Allowable Type of Child Care

The type of care to be provided is determined by the household, but must fall within certain guidelines, as discussed in Chapter 6.

LHC Policy

LHC will verify that the type of child care selected by the household is allowable, as described in Chapter 6 (6-II.F).

LHC will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible household members).

LHC will verify that the child care provider is not an assisted household member. Verification will be made through the head of household's declaration of household members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

LHC Policy

The actual costs the household incurs will be compared with LHC's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the household presents a justification for costs that exceed typical costs in the area, LHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens
[HCV GB, pp. 5-9 and 5-10]

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

<ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> • “Admitted as a Refugee Pursuant to Section 207” • “Section 208” or “Asylum” • “Section 243(h)” or “Deportation stayed by Attorney General” • “Paroled Pursuant to Section 221 (d)(5) of the USCIS” 	<ul style="list-style-type: none"> • Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> • A final court decision granting asylum (but only if no appeal is taken); • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); • A court decision granting withholding of deportation; or • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
<ul style="list-style-type: none"> • Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. 	Form I-688B Employment Authorization Card annotated “Provision of Law 274a.12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

The Lansing Housing Commission's leases are the basis of the legal relationship between the LHC and the resident. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require LHC to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, LHC may require additional inspections in accordance with LHC's policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and LHC's policies pertaining to lease execution, modification, and payments.

Part II: Inspections. This part describes LHC's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that LHC may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information, when applicable, as well as LHC's policies governing leasing issues.

8-I.B. LEASE ORIENTATION

LHC Policy

After unit acceptance but prior to occupancy, a LHC representative will provide a lease orientation to the family. All adult household members are required to attend.

Orientation Agenda

LHC Policy

When families attend the lease orientation, they will be provided with a copy of:

The LHC's grievance procedure

The LHC rules and regulations

The LHC's schedule of maintenance charges

The pamphlet *Protect Your Family from Lead in Your Home*

“Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

“What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

“Debts Owed to Public Housing Agencies and Terminations” (form HUD-52675), which explains the U.S. Department of Housing and Urban Development maintains a national repository of debts owed to any Public Housing Agencies or Section 8 landlords, adverse information of former participants who have voluntarily or involuntarily terminated participation in one of the above-listed HUD rental assistance programs, and the PHA’s obligation to report debts owed to PHAs and adverse information of former participants to HUD via its EIV System. Information about the protections afforded by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, and stalking (see section 16-VII.C)

Topics to be discussed will include: Applicable

deposits and other charges Review and

explanation of lease provisions Unit

maintenance and work orders

The PHA’s reporting requirements

Explanation of occupancy forms

Terms of occupancy

Community service requirements

Family choice of rent

VAWA protections

Housekeeping standards

8-I.C. EXECUTION OF LEASE

The lease must be executed by the resident(s) and LHC, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one LHC unit to another LHC unit.

The lease must state the composition of the household as approved by LHC (family members and any PHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

LHC Policy

The head of household, spouse or co-head, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the LHC will retain the original executed lease in the resident's file.

Files for households that include a **live-in aide** will contain file documentation signed by the live-in aide, stating the live-in aide is not a party to the lease and is not entitled to LHC assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the resident and LHC [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

LHC may modify its lease from time to time. However, LHC must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. LHC must also consider any comments before formally adopting the new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the LHC's Board of Commissioners, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications made in accordance with HUD requirements, or required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

LHC Policy

The family has 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each resident; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the development office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the property's management office and must be furnished to applicants and residents on request [24 CFR 966.5].

LHC Policy

When the LHC proposes to modify or revise schedules of special charges or rules and regulations, the LHC will post a copy of the notice in the central office and each property's office. In addition LHC will either: hand deliver a copy to the resident at the unit; hand deliver a copy to an adult Family member at the unit; or mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications

LHC Policy

The lease shall be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease shall be amended by drawing a line through the person's name. The head of household and LHC will be required to initial and date the change. The head of household must also sign and date a lease modification form to supplement the changes made directly in the lease agreement.

If a new household member is approved, by the LHC, to reside in the unit, the person's name and birth date will be added to the lease. The head of household and LHC must initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease. The head of household will also be required to sign and date a lease modification form to supplement the changes made directly in the lease agreement.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the LHC, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the LHC. The LHC may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

LHC Policy

Residents must pay a security deposit to the LHC at the time of admission. The amount of the security deposit is equal to LHC's minimum rent or no more than the family's total tenant payment at the time of move-in, and must be paid in full prior to occupancy. The Executive Director or their designee may waive a family's security deposit requirement based on LHC's Occupancy.

The LHC will hold the security deposit for the period the family occupies the unit. The LHC will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the LHC will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The LHC will provide the resident with a written list of any charges against the security deposit within 30 days of the move-out. If the resident disagrees with the amount charged, the LHC will provide a meeting to discuss the charges.

If the resident transfers to another unit, the LHC will transfer the security deposit to the new unit. The resident will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by LHC in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the resident rent at the beginning of the initial lease term, and LHC must give written notice stating any change in the amount of tenant rent and when the change is effective.

LHC Policy

The resident rent is due and payable at the LHC-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the LHC will notify the family of the new amount and the effective date by sending a "Rent Change Notice" which will become an attachment to the lease.

Late Fees and Nonpayment

At the option of LHC, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. LHC must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

LHC Policy

If the family fails to pay their rent by the fifth day of the month, and the LHC has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident on the sixth day of the month for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of \$25.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action.

Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the LHC may not take action for nonpayment of the fee until the conclusion of the grievance process.

When a check is returned for insufficient funds or is written on a closed account, the rent is considered unpaid and a returned check fee of \$25.00 will be charged to the family. The fee is due and payable 14 days after billing.

Excess Utility Charges

If LHC charges a resident for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major resident-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after LHC gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under LHC's grievance procedures. LHC must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

LHC Policy

When applicable, families will be charged for excess utility usage according to the LHC's current posted schedule. Notices of excess utility charges will be mailed monthly and shall be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the LHC shall not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

8-I.G. Maintenance and Damage Charges

If LHC charges the resident for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in property management office and must be furnished to applicants and tenants on request [24 CFR 966.5]. Residents can also get a copy of the schedule of special charges at the Central Office.

The lease must indicate charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after LHC gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under LHC's grievance procedures. LHC must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

LHC Policy

When applicable, families will be charged for maintenance and/or damages according to the LHC's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and shall be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the LHC may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require LHC to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, LHC may require additional inspections, in accordance with LHC Policy. This chapter contains LHC's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease requires LHC and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by LHC and the resident, must be provided to the tenant and be kept in the resident file.

LHC Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

LHC must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to LHC. LHC must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

LHC Policy

The move-out inspection will occur within 14 days of management's knowledge of the units' actual vacancy. When applicable, the LHC will provide the resident with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 30 days of conducting the move-out.

Annual Inspections [24 CFR 5.705]

LHC is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS). Under the Public Housing Assessment System (PHAS), HUD's physical condition inspections do not relieve LHC of this responsibility to inspect its units [24 CFR 902.20(d)].

Quality Control Inspections

The purpose of quality control inspection is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

LHC Policy

Supervisory quality control inspections will be conducted to ensure the repairs are consistent with the information documented on the work order and the quality of work meets LHC performance standards.

Special Inspections

LHC Policy

LHC staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists

Other Inspections

LHC Policy

Building exteriors, grounds, common areas and systems will be inspected according to the LHC's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

LHC may enter a dwelling unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of LHC's entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

LHC Policy

The LHC will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the LHC to enter the unit unless the resident notifies LHC (in writing) of their desire to be present..

Emergency Entries [24 CFR 966.4(j)(2)]

LHC may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, LHC shall leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

LHC Policy

Whenever possible, inspections shall be conducted during business hours. If a family needs to reschedule an inspection, they must notify the LHC at least 24 hours prior to the scheduled inspection. The LHC will reschedule the inspection

no more than once unless the resident has a verifiable good cause to delay the inspection. The LHC may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

LHC Policy

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if s/he wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a written statement showing the date purpose and time in the unit prior to leaving.

8-II.D. INSPECTION RESULTS

LHC is obligated to maintain dwelling units and the development in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and LHC must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, LHC must charge the family for the reasonable cost of repairs. LHC may also take lease enforcement action against the family.

If LHC cannot make repairs quickly, LHC must offer the family standard alternative accommodations. If LHC can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

LHC Policy

When conditions in the unit are hazardous to life, health, or safety, the LHC will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire

- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

Non-emergency Repairs

LHC Policy

The LHC will correct non-life threatening health and safety defects within 30 business days of the inspection date. If the LHC is unable to make repairs within that period due to circumstances beyond the LHC's control (e.g. required parts or services are not available, weather conditions, etc.) the LHC will notify the family of an estimated date of completion.

The family must allow the LHC access to the unit to make repairs.

Resident-Caused Damages

LHC Policy

Damages to the unit beyond wear and tear will be billed to the resident in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

LHC Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the LHC shall provide proper notice of a lease violation.

A reinspection will be conducted within 14 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

LHC shall issue a lease violation notice to residents who purposely disengage unit's smoke detector(s). Only one warning will be given. A second incidence will result in lease termination.

Chapter 9

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

LHC is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. LHC must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which LHC must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires LHC to offer all families the choice of paying income-based rent or flat rent at least annually. LHC's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains LHC's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains LHC's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and LHC policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, LHC must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, LHC must conduct a reexamination of income and family composition at least annually [24 CFR

960.257(a)(1)]. For families who choose flat rents, LHC must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, LHC must conduct an annual review of community service requirement compliance. LHC will also complete a criminal background check during the annual review.

LHC is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains the PHA's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

LHC must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

LHC Policy

Generally, the LHC will schedule annual reexaminations to coincide with the family's move in anniversary date. The LHC will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as the effective date of the family's initial examination (admission). If the family transfers to a new unit, the LHC will perform an interim reexamination; however, the anniversary date will remain the same.

The LHC may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

LHC is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of LHC. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

LHC Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, co-head, and all other adults family members. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact LHC to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform

the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact LHC in advance of the interview. In all circumstances, if a family does not attend the scheduled interview LHC will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without LHC approval, the family will be terminated for violating their lease in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

LHC Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a LHC-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 5 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be terminated for violating their lease in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. LHC may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

LHC Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service

For families who include nonexempt individuals, LHC must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for LHC's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, LHC must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

LHC Policy

In general, an *increase* in the resident's rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family is responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the resident's rent that results from an annual reexamination will take effect on the family's anniversary date.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively,

from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the LHC by the date specified, and this delay prevents the LHC from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that LHC offer all families the choice of paying income-based rent or flat rent at least annually. LHC's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, on an annual basis, the PHA must also review community service compliance and have each adult resident consent to a criminal background check. This part contains the LHC's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

LHC Policy

For families paying flat rents, the LHC will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

LHC Policy

In conducting full reexaminations for families paying flat rents, the LHC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require LHC to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that LHC does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

LHC must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

LHC Policy

For families paying flat rents, annual updates for family composition will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the LHC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

LHC Policy

Generally, the family will not be required to attend an interview for an annual update. However, if the LHC determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the LHC. The family has 10 business days to submit the required information to the LHC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The LHC will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, the LHC will send a second written notice to the family. The family has 5 business days from the date of the second notice to provide the missing information or documentation to the LHC.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be terminated for violating their lease in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. LHC may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents shall be conducted in accordance with the policy in Section 13-IV.B.

LHC Policy

Each household member age 18 and over is required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, LHC must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and LHC policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances LHC must process interim reexaminations to reflect those changes. HUD regulations also permit LHC to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. LHC must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and LHC policies describing what changes families are required to report, what changes families may choose to report, and how LHC will process both LHC- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

LHC must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the PHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

LHC Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

The LHC will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify LHC of the addition [24 CFR 966.4(a)(1)(v)].

LHC Policy

The family must inform LHC of the birth, adoption, or court-awarded custody of a child within 10 business days of the action.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request LHC's approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

LHC may adopt reasonable policies concerning occupancy by a foster child or a live-in aide, and defining the circumstances in which LHC consent will be given or denied.

Under such policies, the factors considered by LHC may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- LHC's obligation to make reasonable accommodation for persons with disabilities.

LHC Policy

Families must request LHC approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the LHC prior to the individual moving into the unit.

The LHC will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it requires the family to transfer to a larger size unit (see the transfer policy in Chapter 12), unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the LHC. Exceptions will be made on a case-by-case basis.

The LHC will not approve the addition of a new family or household member unless the individual meets the LHC's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the LHC determines that an individual does not meet the LHC's eligibility criteria or documentation requirements, the LHC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The LHC will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

LHC Policy

If a family member ceases to reside in the unit, the family must inform the LHC within 10 business days. This requirement also applies to family members previously considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the LHC within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because LHC has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, LHC may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

LHC Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim changes in rent will be calculated only if income goes up or down \$1000 annually. Changes must be documented on the Income and Asset and Personal Declaration forms

In order to qualify for a rent reduction for the following month, clients must report income decreases by the 15th day of the month proceeding the effective month of the reduction to allow LHC to verify the income.

Should a participant report an income change that does not meet the reporting guidelines set forth in the LHC Administrative plan (i.e. less than \$1000.00 annually) the change will not be processed and a letter will be sent to the participant indicating no change was made.

A family who fails to abide by LHC's interim reporting requirements may be terminated from the Public Housing Program.

LHC-initiated Interim Reexaminations

LHC-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

LHC Policy

The LHC will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the LHC will conduct an interim reexamination at the start of the EID term, to adjust the

exclusion with any changes in income, and at the conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, the LHC will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the LHC will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the LHC will conduct an interim reexamination.

The LHC may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

LHC must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

HUD regulations give LHC the freedom to determine the circumstances under which families will be required to report changes affecting income.

LHC Policy

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

The LHC will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's rent will change as a result of the increase. In all other cases, the LHC will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The PHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

LHC Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, the LHC will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, the LHC will conduct an interim reexamination. See Section 9-III.D. For effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

LHC Policy

The family must notify the LHC of changes in writing. If the family provides oral notice, the LHC may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the LHC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the LHC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the LHC. This time frame may be extended for good cause with LHC approval. The LHC will accept required documentation by mail, by fax, or in person.

Effective Dates

The PHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

LHC Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family

will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, LHC must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in LHC's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

LHC Policy

Unless the LHC is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires LHC to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When LHC re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the resident, not including determination of the PHA's schedule of Utility Allowances for families in LHC Public Housing Program, or determines that the resident must transfer to another unit based on family composition, LHC must notify the resident s/he may ask for an explanation stating the specific grounds of the LHC determination, and if the resident does not agree with the determination, the resident shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

LHC Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, LHC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, LHC may discover errors made by LHC. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains LHC policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of LHC to provide a decent, safe and sanitary living environment for all residents, and to protect and preserve the physical condition of the property, as well as the financial interest of LHC.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that assist, support, or provide service to a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as "service animals," "assistive animals," "support animals," or "therapy animals" – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired

- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to LHC's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occupancy Guide Book ("Occ GB"), p. 179].

LHC may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

LHC's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

LHC has the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303(b) (3); 960.705(b)(3)].

LHC Policy

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and LHC approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority LHC may have to regulate assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

LHC Policy

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, LHC will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If LHC determines that no such accommodation can be made, LHC may withdraw the approval of a particular assistance animal.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].

LHC Policy

Pets must be registered with LHC before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free.

This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Refusal to Register Pets

LHC Policy

LHC will refuse to register a pet if:

The pet is not a *common household pet* as defined in Section 10-II.C.

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

LHC reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If LHC refuses to register a pet, a written notification will be sent to the pet owner within 14 consecutive days of LHC's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with LHC's grievance procedures.

Pet Agreement

LHC Policy

Residents who have been approved to have a pet must enter into a pet agreement with LHC, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of LHC's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with LHC's pet policy and applicable house rules may result in the withdrawal of LHC approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

LHC may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that LHC classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

PHA's may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

LHC Policy

Common household pet means is defined as a domesticated dog, cat, guinea pig, gerbil, hamster, rabbit, or birds in cages and fish in aquariums. Reptiles and birds of prey are not household animals.

Exotic animals, such as iguanas, spiders, snakes (reptiles), rodents, insects, wild animals or feral animals, pot-bellied pigs, animals used for commercial breeding or ferrets, will not be considered household pets and will not be permitted. Dogs of vicious or aggressive disposition will not be permitted. Due to age and behavioral activities of puppies and kittens, ownership requests for such animals shall be more closely scrutinized prior to approval in an attempt to ensure that the animal owner Resident has the ability to handle the ownership responsibilities involved with such animals.

Pet Restrictions

LHC Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

Dogs of the pit bull, rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted City of Lansing local ordinance

Number of Pets per Household

LHC Policy

- Residents may own a maximum of 2 pets, only 1 dog or 1 cat.
- A household may own no more than two animals which includes “Passive Animals.”
- The term “Passive Animals” shall be defined as one or two birds in one cage.
- In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.
- No more than two birds in a cage will count as one animal. An appropriate size aquarium with fish shall count as one animal.
- A service animal shall count as one or two animals within the household.

Size of Animals

The maximum allowable animal size, based upon weight, is twenty-(20) pounds adult weight, except for service animals that assist persons with disabilities.

Other Requirements

LHC Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with City of Detroit local ordinance. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with LHC policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

LHC Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. Pets must be under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Proper Maintenance of Pets

The Resident must maintain the pet in a reasonable manner in accordance with all state and local public health, animal control and anti-cruelty laws and regulations. "Reasonable manner" is defined as regular grooming, exercise, good nutrition, flea control, waste and litter clean up, routine veterinary care and yearly inoculation. Pets must be spayed and neutered after six (6) months of age. The pet must be walked only in areas designated by LHC and must be on a hand leash held by a person aged 13 or older at all times. Each dog or cat must have its own collar, must be licensed and must be up to date on vaccinations. LHC management will conduct an annual review to confirm current registration, licensing and vaccinations at the time of annual lease renewal. The Resident pet owner shall provide LHC with a photograph of the pet, which shall be kept with the Pet Lease Addendum in the Resident's file. The Resident must also maintain standards referenced in the Pet Lease Addendum. The Pet Lease Addendum will serve as an addendum to LHC Lease.

No pet, excluding fish, shall be left unattended in any unit for a period in excess of 24 hours.

Resident pet owners must recognize other Residents may have chemical sensitivities or allergies related to pets, or may be easily frightened or disoriented by animals. Pet owners shall exercise courtesy with respect to other Residents. As a reasonable accommodation, Pets may be prohibited in Buildings where other residents have a sensitivity or allergy related to pets.

Pets must be restrained in a cage or other device when the resident is away from the unit. LHC staff must be able to enter and maneuver the unit without interference from a pet(s) in order to perform required maintenance and work orders whether routine or emergency in nature.

Inspections

LHC may, after reasonable notice to the Resident pet owner during reasonable hours, enter and inspect the premises, in addition to other inspections allowed under the ACOP.

LHC may enter and inspect the unit only if a written complaint is received alleging that the conduct or condition of the pet in the unit constitutes a nuisance or threat to the health or safety of the other occupants or other persons in the community under applicable State or local law.

Indemnity

The Resident agrees to indemnify, hold harmless and defend LHC against claims by third parties for damage or injury caused by the pet.

Cleanliness

Cleanliness Requirements

All animal waste or the litter from litter boxes shall be picked up immediately by the Resident pet owner, disposed of in sealed plastic trash bags, and placed in a trash bin.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be stored inside the Resident's dwelling unit.

Failure to maintain the unit and/or properly dispose of pet waste will result in a rescission of the provision and/or eviction.

The Resident pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in an outside trash bin.

Any unit occupied by a dog, cat or rodent will be fumigated at the time the unit is vacated.

The Resident pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Alterations to Unit

LHC Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

LHC Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

LHC Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage LHC property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

LHC Policy

The pet owner is required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the

pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify LHC and sign a statement indicating they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

LHC Policy

Pets that are not owned by a resident are not allowed on the premises.

Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by LHC.

Pet Rule Violations

LHC Policy

All complaints of cruelty and all dog bites will be referred to Ingham County Animal Control. If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

The pet owner has 5 business days from the service of notice date to correct the violation or a make written request for a meeting to discuss the violation

The pet owner is entitled to be accompanied by another person of his or her choice at the meeting

The pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

If the Resident pet owner timely requests a meeting, the meeting will be scheduled no later than five (5) business days after receipt of the request for the meeting, unless the Resident pet owner agrees to a later date in writing.

Notice for Pet Removal

LHC Policy

If the pet owner and LHC are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by LHC, may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for LHC determination of the pet rule that has been violated

The requirement that the resident /pet owner must remove the pet within 5 business days of the notice and provide written verification/proof where the pet now residesing

A statement indicating failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

LHC Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if LHC after reasonable efforts cannot contact the responsible party, LHC may contact the appropriate state or local agency to remove the pet.

Termination of Tenancy

LHC Policy

LHC may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner failed to remove the pet or correct a pet rule violation within the time period specified

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

LHC Policy

LHC will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for LHC to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

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

LHC does not have site specific Elderly/Disabled Developments.

Part IV: Pet Deposits and Fees in General Occupancy Developments

10-IV.A. Overview

This part describes LHC's policies for pet deposits and fees for those who reside in general occupancy developments

10-IV.B. Pet Deposits

Security Deposits

All Resident pet owners, approved after April 1, 2010, including owners of Passive and non-passive Pets, Pet Deposit in the amount of One Hundred Dollars (\$100.00)

The pet deposit does not apply to Assistance Service Animals.

Refund of Deposit [24 CFR 5.318(d)(1)]

LHC may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the resident's dwelling unit. LHC must refund the unused portion of the pet deposit to the resident within a reasonable time after the resident moves from the project or no longer owns or keeps a pet in the unit.

LHC Policy

LHC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

LHC will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, LHC will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

LHC will require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

LHC Policy

LHC requires pet owners to pay a non-refundable nominal pet fee.

This fee is intended to cover the reasonable operating costs to the project relating to the presence of pets. Reasonable operating costs to the project relating to the presence of pets include, but are not limited to:

Landscaping costs

Pest control costs

Insurance costs

Clean-up costs

All Resident pet owners are required to pay a Non Refundable Pet Application Fee in the amount of Twenty Five Dollars (\$25.00) except that no such payment shall be required for pet owners who only have Passive Pets.

In addition, all Resident pet owners of dogs or cats shall pay a Non-Refundable Monthly Pet Fee of Ten Dollar (\$10) per pet in addition to the Resident's regular monthly rent payment, except that no such monthly maintenance fee shall be charged for Passive Pets. This Pet Fee is to cover reasonable operating costs to LHC relating to the presence of pets.

All Resident pet owners, approved after April 1, 2010, including owners of Passive Pets, must pay a Two Hundred Dollar (\$200.00) non-refundable cleaning fee

The pet deposit does not apply to Assistance Service Animals.

Charges for the non-refundable pet fee are not part of rent payable by the resident.

10-IV.D. OTHER CHARGES

Pet-Related Damages During Occupancy

LHC Policy

All reasonable expenses incurred by LHC as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address LHC's ability to impose charges for house pet rule violations. However, charges for violation of LHC pet rules may be treated like charges for other violations of the lease and LHC tenancy rules.

LHC Policy

A separate pet waste removal charge of \$25.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required

timeframe, LHC may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

CHAPTER 11

COMMUNITY SERVICE

INTRODUCTION

Section 512 of the 1998 Quality Housing and Work Responsibility Act (QHWRA), as amended, mandates that every non-exempt adult Resident of public housing is required to perform eight (8) hours of community service each month or participate in a self-sufficiency program for at least eight (8) hours each month or a combination of the two (2) totaling eight hours each month. These requirements shall be referred to as CSSR in this policy, i.e., community service and self-sufficiency requirements.

Part I: Community Service Requirements. Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

Part II: PHA Implementation of Community Service. In administering community service requirements, LHC must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609) which specifies when a Resident must perform community service activities or self-sufficiency work activities. The rule requires that eligible adult public housing Family members comply with its "general requirements" and that the housing authority assure compliance. If a household fails to comply, after being sent a Notice of Noncompliance, the housing authority may not renew the Resident's Lease upon expiration, unless the Resident has entered into an Agreement for Cure to achieve compliance over the twelve (12) month term of the new Lease.

11-I.B. REQUIREMENTS

Each non-exempt adult Family member must meet the following requirements:

- Contribute eight (8) hours per month of community service (not including political activities); or

- Participate in an economic self-sufficiency program for eight (8) hours per month; or
- Perform eight (8) hours per month of combined community service and participation in a self-sufficiency program.

The Resident's Lease shall automatic renewal for all purposes, unless the Family fails to comply with the community service requirements of LHC. Violation of this policy is grounds for non-renewal of the Lease at the end of the twelve (12) month Lease term but not for termination of residency during the course of the twelve (12) month Lease term. At the time of Lease renewal, Residents must enter a new CSSR Agreement which is applicable for the term of the Lease and stipulates that all Family members who are subject to the CSSR are currently complying with the service requirement or are no longer residing in the household.

Definitions

Exempt Individual [24 CFR 960.601 (b), Notice PIH 2009-48]

The CSSR applies to adult Family members eighteen (18) years of age and older. An adult Family member is exempt from CSSR who meets the following criteria:

- Is 62 years or older;
- Is a blind or disabled individual as defined under 216(i) (1) or 1614 of the Social Security Act (42 U.S.C. 416 (i) (1);1982c), and who certifies that because of this disability s/his unable to comply with the service requirements, or is a primary caretaker of such blind or disabled individual;
- Is engaged in work activities which meet the following qualifications:
 - unsubsidized employment;
 - subsidized private sector employment;
 - subsidized public sector employment;
 - work experience, including work associated with refurbishing publicly assisted housing, if sufficient private sector employment is unavailable;
 - on the job training;
 - community service programs;
 - job search and job readiness assistance;
 - vocational educational training not to exceed 12 months for any individual;
 - job skills training directly related to employment;
 - education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of general high school equivalency;
 - satisfactory attendance at secondary school or in a course of study

- leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; and
- o the provision of child care services to an individual who is participating in a community service program.
- Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) Or under any other State administered welfare-to-work program; or
- Is a member of a Family receiving TANF assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other State administered welfare-to-work program

Documentation that can serve as proof of exemption includes, but is not limited to:

- Birth certificate or some other form of government identification.
- Some form of government certification of disability as defined under Section 216 or 1614 under the 1982 Social Security Act and a written certification (i.e., LHC Reasonable Accommodation form) from the person claiming the disability that because of the disability s/he cannot comply with the CSSR.
- A written certification stating the Family member is the primary caretaker for a disabled Family member and a copy of the documents certifying the disability of the Family member for whom care is being provided.
- Proof of employment.
- Proof of exemption from having to work under a State program funded under Part A of Title IV of the Social Security Act.
- Proof of participation in the State of Michigan's Work First Program.

Community Service [24 CFR 960.601(b), Notice PIH 2009-48]

During the term of the Lease, all non-exempt adult Family members shall volunteer with the following types of community based organizations in order to fulfill their CSSR:

- The local Resident Council;
- LHC local management office. Services may include volunteering to serve on a Resident Patrol/Community Watch group; however, the activities performed

by Residents may not be in areas ordinarily performed by LHC employees;

- Local on site or surrounding area service providers that offer these services;
 - Day care/child care;
 - Senior citizens programs;
 - After school programs;
 - Educational programs;
 - Anti-Drugs/Anti-crime prevention programs; or
 - Other community based organizations approved by LHC

LHC will also recognize community service which is performed at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work as eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2009-48]

An approved self-sufficiency program is any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for

- Job training
- Employment
- Counseling
- Work placement
- Basic skills training, education
- English proficiency
- Workfare
- Financial or household management
- Apprenticeship
- Any program necessary to ready a participant for work (including a substance abuse or mental health treatment program)

- Other work activities.

All Residents performing community service activities or who are participating in an economic self-sufficiency program must show written proof, on official letter head, of performing community service activities or participation in an approved economic self-sufficiency program. The written proof must have the certifying official's name, signature and date, and must have the certifying official's telephone number. If LHC has reasonable cause to believe the certification provided by the family is false or fraudulent, LHC has the right to require third-party verification.

Work Activities [42 U.S.C. 607(d)]

A non-exempt resident may not skip the 8 hour requirement for the month and then double up on 8 hour requirement the following month, unless LHC approves this action in advance and special circumstances (i.e., Reasonable Accommodation).

- As it relates to an exemption from the community service requirement, *work activities* means:
- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must submit a reasonable accommodation request to LHC within 14 business days of the circumstances becoming known. LHC will review the request and notify the individual, in writing, of its determination within 14 business days. LHC may require those individuals to provide documentation to support their claim.

When a non-exempt resident becomes exempt, it is his/her responsibility to report this to LHC and to provide documentation. When an exempt resident becomes non-exempt, it is his/her responsibility to report this to LHC. These changes must be reported within 14 calendar days from the date that the change occurred.

The Asset Manager will review the files of each Resident household every quarter to determine if each non-exempt Family member has complied with the CSSR. If LHC determines a non-exempt Family member is not in compliance, a "Notice of Non-compliance" will be sent to the head of household notifying him/her of this determination.

Notification Requirements [24 CFR 960.605 (c)(2), Notice PIH 2009-48]

The Notice of Non-Compliance shall:

- Briefly describe the non-compliance;
- State LHC will not renew the Family's Lease at the end of the twelve (12) month Lease term unless (1) the head of household, and any non-compliant Family member, enters into a written CSSR Compliance Agreement with LHC to cure such non-compliance and in fact cures such non-compliance, or (2) the head of household provides written assurance, satisfactory to LHC, that the non-compliant Family member no longer resides in the household;
- State the Resident may request a hearing on the non-compliance determination and
- State the Resident may exercise any available judicial remedy to seek redress for LHC's non-renewal of the Lease.

LHC must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for LHC verification of exempt status LHC must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, Attachment A of Notice PIH 2009-48, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease.

LHC Policy

The LHC will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, the LHC will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

If a non-exempt adult Family member violates the CSSR, upon expiration of the Lease, LHC will not renew the Family's Lease unless the head of household and any non-compliant Family member enters into a written CSSR Compliance Agreement with LHC, in the form and manner required by LHC, to cure the non-compliance by completing the additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over the twelve (12) month term of the new Lease;

The head of household shall certify to LHC that all other non-exempt Family members are in compliance or are no longer residing in the household.

If a non-exempt Family member violates the requirements of the CSSR Compliance Agreement, at the expiration of the twelve (12) month term covered by the agreement, LHC will not renew the Lease and the Family will be subject to eviction.

Annual Determination

In addition to the quarterly CSSR review described above, concurrent with recertification the Asset Manager's will review the Family's CSSR compliance at least thirty (30) days before the end of the twelve (12) month Lease term.

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

LHC Policy

At least 60 days prior to lease renewal, the LHC will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the LHC has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the LHC will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

LHC must review resident family compliance with service requirements annually at least 30 days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, LHC must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

LHC Policy

Approximately 60 days prior to the end of the lease term, the LHC will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the LHC required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or LHC approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status between Annual Determinations

LHC Policy

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the twelve month lease term, it is the family's responsibility to report this change to the LHC within 10 business days.

Within 10 business days of a family reporting such a change, or the LHC determining such a change is necessary, the LHC will provide written

notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30 day notice.

Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the LHC within 10 business days. Any claim of exemption will be verified by the LHC in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or the LHC determining such a change is necessary, the LHC will provide the family written notice that the family member is no longer subject to the community service requirement, if the LHC is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4)]

LHC must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

LHC Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The LHC will provide a completed copy to the family and will keep a copy in the tenant file.

The LHC will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The LHC makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the LHC's determination, s/he can dispute the decision through the LHC's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by LHC of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2009-48].

If qualifying community service activities are administered by an organization other than LHC, a family member who is required to fulfill a service requirement must provide certification to LHC, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

LHC Policy

If anyone in the family is subject to the community service requirement, LHC will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to LHC, upon request by LHC.

If LHC has reasonable cause to believe that the certification provided by the family is false or fraudulent, the LHC has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Initial Noncompliance

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

If the tenant or another family member has violated the community service requirement, LHC may not renew the lease upon expiration of the twelve-month term of the lease, unless the tenant and any other noncompliant family member enter into a written

agreement with LHC. Under this agreement the tenant or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service requirement must be currently complying with the service requirement or must no longer be residing in the unit [24 CFR 960.607(c), Notice PIH 2009-48].

Notice of Initial Noncompliance [24 CFR 960.607(b)]

If LHC determines that there is a family member who is required to fulfill a service requirement, but who has failed to comply with this obligation (noncompliant resident), LHC must notify the tenant of this determination.

The notice to the tenant must briefly describe the noncompliance. The notice must state that LHC will not renew the lease at the end of the twelve-month lease term unless the tenant, and any other noncompliant resident, enter into a written agreement with LHC to cure the noncompliance, or the family provides written assurance satisfactory to LHC that the tenant or other noncompliant resident no longer resides in the unit.

The notice must also state that the tenant may request a grievance hearing on LHC's determination, in accordance with LHC's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for LHC's nonrenewal of the lease because of LHC's determination.

LHC Policy

The notice of initial noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the LHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the LHC will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance [24 CFR 960.607(b)]

If, after the 12 month cure period, the family member is still not compliant, LHC must terminate tenancy of the entire family, according to LHC's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

LHC Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the LHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

Enforcement Documentation [Notice PIH 2009-48]

LHC is required to initiate due process (see 24 CFR 966.53(c)) against households failing to comply with lease requirements including the community service and self-sufficiency requirement.

When initiating due process, LHC must take the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction

- Right of the tenant to be represented by counsel
- Opportunity for the tenant to refute the evidence presented by LHC, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have
- A decision on merits

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

LHC must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in LHC's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

PHA Implementation of Community Service

LHC may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by LHC employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

LHC Policy

LHC will notify its insurance company if residents will be performing community service at LHC. In addition, LHC will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, LHC will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

PHA Program Design

LHC may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

LHC Policy

LHC will attempt to provide the broadest choice possible to residents as they choose community service activities.

LHC's goal is to design a service program that gives residents viable

opportunities to become involved in the community and to gain competencies and skills. The LHC will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

LHC will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, LHC will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in LHC Plan.

LHC will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

When LHC has a ROSS program, a ROSS Service Coordinator, or an FSS program, the LHC will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with LHC coordinators will satisfy community service activities and LHC coordinators will verify community service hours within individual monthly logs.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

Note: Political activity is excluded.

Self-Sufficiency Activities – self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers

- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any activity required by the Department of Public Assistance under Temporary Assistance for Needy Families (TANF)
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individual
- Is engaged in *work activities*
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

Work Activities – as it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training

- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month. An individual may not skip a month and then double up the following month, unless special circumstances warrant special consideration. The housing authority will make the determination of whether to allow or disallow a deviation from the schedule based on a family's written request.
3. Family obligation:
 - At lease execution, all adult members (18 or older) of a public housing resident family must:
 - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
 - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
 - Upon written notice from the PHA, nonexempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
 - If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.

4. Change in exempt status:

- If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is his or her responsibility to report this to the PHA and provide documentation of exempt status.
- If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is his or her responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the PHA will:

- Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
- Provide in-house opportunities for volunteer work or self-sufficiency activities.

2. The PHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.

3. Although exempt family members will be required to submit documentation to support their exemption, the PHA will verify the exemption status in accordance with its verification policies. The PHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the PHA's grievance procedure if they disagree with the PHA's determination.

4. Noncompliance of family member:

- At least thirty (30) days prior to the end of the 12-month lease term, the PHA will begin reviewing the exempt or nonexempt status and compliance of family members:
 - The PHA will secure a certification of compliance from nonexempt family members (Attachment B).
- If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the PHA finds the family member to be noncompliant, the PHA will not renew the lease unless:
 - The head of household and any other noncompliant resident enter into a

written agreement with the PHA, to make up the deficient hours over the next twelve (12) month period; or

- The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
- If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit;
- The family may use the PHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident

Date

Resident

Date

Resident

Date

Resident

Date

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(1) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term “disability” means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term “aged, blind, or disabled individual” means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973,

so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

EXHIBIT 11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the PHA's community service requirement for the following reason:

- 62 years of age or older (*Documentation of age in file*)
- Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement (*Documentation of HUD definition of disability in file*)

Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

Signature of Family Member

Date

- Is the primary caretaker of such an individual in the above category. (*Documentation in file*)
- Is engaged in work activities (*Verification in file*)
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program (*Documentation in file*)
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program (*Documentation in file*)

Signature of Family Member

Date

Signature of PHA Official

Date

CHAPTER 12

TRANSFER POLICY

INTRODUCTION

This chapter explains LHC's transfer policy, based on HUD regulations, HUD guidance, and LHC policy decisions. This regulation and LHC policies related to transfers are explained in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: PHA Required Transfers. This part describes types of transfers that may be required by the PHA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, de-concentration, transferring to another development and reexamination.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers [Public Housing Occupancy Guide Book ("PH Occ GB," p. 147)]. The emergency transfer differs from a typical transfer in that it requires immediate action by LHC.

In the case of a genuine emergency, it may be unlikely that LHC will have the time or resources to immediately transfer a resident. Due to the immediate need to vacate the unit, placing the resident on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, LHC should find alternate accommodations for the resident until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is reached.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent the conditions are hazardous to life, health, or safety of the occupants, LHC must offer standard alternative accommodations, if

available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

LHC Policy

The following is considered an emergency circumstance warranting an immediate transfer of the resident or family:

Maintenance conditions in the resident's unit, building or at the site pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours.

Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

The following is not considered an emergency circumstance warranting an immediate transfer of the resident or family:

Damage to a unit which is caused by the resident or family which pose an immediate, verifiable threat to the life, health or safety of the resident or family members does not warrant an immediate transfer of the resident or family

12-I.C. EMERGENCY TRANSFER PROCEDURES

LHC Policy

If the transfer is necessary because of maintenance conditions, LHC will transfer the family to any available unit in the AMP where the family resides which meets the family unit size needs. If an appropriate unit is not immediately available, LHC will provide temporary accommodations to the resident by arranging temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, LHC will transfer the resident to the first available appropriate unit (in the AMP where the family resides) after the temporary relocation.

Emergency transfers are mandatory for the resident. The resident must accept the first unit offered.

12-I.D. COSTS OF TRANSFER

LHC Policy

LHC will bear the reasonable costs of temporarily accommodating the resident and of long term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

LHC will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, LHC will collect information from companies in the community that provide these services.

LHC will reimburse the family for eligible out-of-pocket moving expenses up to LHC's established moving allowance. LHC may pay all necessary utility transfer charges and cable charges

PART II: LHC REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to LHC to develop reasonable transfer policies.

LHC may require that a resident transfer to another unit under certain circumstances. For example, LHC may require a resident to transfer to make an accessible unit available to a family that requires the unit's accessibility feature(s). LHC may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, LHC may transfer residents in order to demolish or renovate a property.

A transfer that is required by LHC is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF PHA REQUIRED TRANSFERS

LHC Policy

The types of transfers required by LHC, include, but are not limited to, transfers to make an accessible unit available for a qualified family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers classified as required by LHC are mandatory for the resident.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, LHC shall require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

LHC Policy

When a non-accessible unit becomes available, LHC will transfer a family living in an accessible unit that does not require the accessible features, to move to an available unit that is not accessible. LHC shall wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

LHC may require a resident to move when an examination indicates there has been a change in family composition, and the family is either overcrowded or over-housed according to PHA policy [24 CFR 960.257(a)(4)]. On some occasions, the PHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the resident's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

LHC Policy

LHC will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of this transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on LHC's occupancy standards as described in Section 5-I.B.

LHC may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on LHC's occupancy standards, when LHC determines there is a need for the transfer.

LHC may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by LHC a transfer is necessary and that the family was added to the transfer list.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers will take place to permit LHC to demolish, sell property or do major capital or rehabilitation work to a property [PH Occ GB, page 148].

These transfers permit the PHA to demolish, sell or do major revitalization or rehabilitation work at a building or site.

LHC Policy

LHC will relocate a family when the unit or site in which the family lives is undergoing a major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under the Uniform Relocation Act, and the family may be allowed to return to their unit, depending on occupancy standards and contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

An LHC required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, LHC may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

LHC Policy

LHC will bear the reasonable costs of transfers LHC requires, except residents are required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading, disconnecting and reconnecting utilities, telephone and cable

LHC will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, LHC will collect information from companies in the community that provide these services.

LHC will reimburse the family for eligible out-of-pocket moving expenses up to LHC's established moving allowance.

Extraordinary Maintenance Costs

The transferring Resident will be billed for any damages in excess of ordinary wear and tear that occurred in his/her unit prior to the transfer. And must be paid within 14 days of printed bill.

PART III: TRANSFERS REQUESTED BY RESIDENTS

12-III.A. OVERVIEW

HUD provides LHC with discretion to consider transfer requests from residents. The only requests that LHC is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of LHC. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by LHC.

Some transfers requested by residents should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

LHC Policy

Transfer requests may be considered within your home AMP. LHC will consider are limited to transfers requests: to alleviate a serious or life threatening medical condition, transfers involving verifiable police action(s) resulting in threats or actual physical harm, reasonable accommodation, and transfers to a location closer to employment. No other resident transfer requests will be considered by LHC.

LHC considers the following as high priority transfer requests:

to alleviate verified medical problems of a serious or life-threatening nature

To prevent a resident or family member from becoming a potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking as verified by an assessment by law enforcement .or

To provide a reasonable accommodation

Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility

impairment or a transfer to a unit with accessible features.

When any household member is employed 25 miles or more from the public housing unit, has no reliable transportation..

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, LHC may establish other standards for considering a transfer request [PH Occ GB, p. 150].

LHC Policy

LHC will not transfer a resident from one unit to another unless it is an approved reasonable accommodation or to correct over or under-housed residents.

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to LHC determines a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, or stalking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

12-III.D. SECURITY DEPOSITS

LHC Policy

When a family transfers from one unit to another, LHC will transfer their security deposit to the new unit. The resident will be billed for any maintenance or others charges due for the “old” unit. However, any unpaid balances will reflect on the resident ledger for the “new unit” until the balance is paid in full.

12-III.E. COST OF TRANSFER

LHC must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident’s disability [Notice PIH 2006-13].

LHC Policy

LHC will bear the transfer costs when the transfer is done as a reasonable accommodation.

12-III.F. HANDLING OF REQUESTS

LHC Policy

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

In the case of a reasonable accommodation LHC requests residents to make the request for a reasonable accommodation transfer in writing using a reasonable accommodation request form. However, LHC will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

LHC will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D of this ACOP.

If the family does not meet the “good record” requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

LHC will respond within 14 (14) calendar days of the submission of the family’s request. If LHC denies the request for transfer, the family will be informed of its grievance rights.

The Site Manager will evaluate the request to determine if a transfer is justified based on this ACOP by reviewing the residents file.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

LHC Policy

LHC will maintain an AMP based transfer list to ensure transfers are processed in the correct order and procedures are uniform .

Emergency transfers automatically go on the top of the transfer list. Transfers

will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other LHC-required transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the Executive Director or their designee, LHC may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow LHC to meet the demolition or renovation schedule.

LHC-required transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

LHC Policy

Residents will receive one offer of a transfer.

When the transfer is required by LHC, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

LHC Policy

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

The family demonstrates to LHC's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to LHC's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

LHC will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

LHC Policy

If subject to de-concentration requirements, LHC will consider its de-concentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve LHC's de-concentration goals. A de-concentration offer will be considered a "bonus" offer; that is, if a resident refuses a de-concentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

The date of the transfer does not change the annual recertification date. The Site Manager of the new development should be certain the annual review is properly

scheduled to give staff time to re-determine rent in order to meet the established recertification date.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party in a lease agreement may terminate the lease under certain circumstances. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. The LHC may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which the LHC can terminate a family's lease, and give LHCs authority to determine other reasons.

When determining the LHC policy on terminations, state and local landlord-tenant laws must be considered, since such laws could vary from one location to another. These variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern both the family's and the LHC's termination of the lease. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the family's voluntary termination of the lease and the requirements the LHC places upon families who wish to terminate their lease.

Part II: Termination by PHA - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by LHC occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by PHA – Other Authorized Reasons. This part describes the LHC's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes LHC to terminate. For some of these options HUD requires the LHC to establish policies and lease provisions for termination, but termination is not mandatory. For other options the PHA has full discretion whether to consider the options as just cause to terminate as long as the LHC policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the LHC may consider in lieu of termination, and the criteria the LHC will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and the LHC policies regarding the timing and content of written

notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the project office or the PHA central office or sent by pre-paid first-class mail, properly addressed.

LHC Policy

If a family desires to move and terminate their tenancy with the LHC, they must give at least 30 calendar days advance written notice to LHC of their intent to vacate. When a family must give less than 30 days notice due to circumstances beyond their control LHC, at its discretion, may waive the 30 day requirement.

The notice of lease termination must be signed by the head of household, spouse, or co-head.

PART II: TERMINATION BY PHA – MANDATORY

13-II.A. OVERVIEW

HUD requires LHC to terminate the lease in certain circumstances. In other circumstances HUD requires LHC to establish provisions for lease termination, but it is still LHC's option to determine, on a case-by-case basis, whether termination is warranted. For those resident actions or failures to act where HUD requires termination, LHC has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires LHC to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

LHC must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

LHC must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as

determined by LHC, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2010-3]

LHC must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and LHC determines the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, LHC may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date LHC determined the family to be noncompliant.

LHC Policy

The LHC will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE PHA'S OFFER OF A LEASE REVISION [24 CFR 966.4(I)(2)(ii)(E)]

LHC must terminate the lease if the family fails to accept the LHC's offer of a lease revision to an existing lease, provided LHC has done the following:

- The revision is on a form adopted by LHC in accordance with 24 CFR 966.3 pertaining to requirements for notice to residents and resident organizations and their opportunity to present comments.
- LHC has provided written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- LHC has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to PHA policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(I)(5)(i)(A)]

LHC must immediately terminate the lease if LHC determines any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises*.

13-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(I)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

LHC is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.H. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2010-3]

LHC must immediately terminate program assistance for deceased single member households.

PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring LHC to terminate the lease under the circumstances described in Part II, HUD requires LHC to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require LHC to terminate for such violations in all cases. LHC has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and LHC may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must make policy decisions concerning these options.

In addition, HUD authorizes LHC to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. LHC must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the LHC lease. In the development of the terms of the lease, LHC must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords LHC's wide discretion in some areas, a broad range of policies could be acceptable.

LHC, with some restrictions, also has the option to terminate the tenancies of families who are over income.

LHC may consider alternatives to termination and must establish policies describing the criteria LHC will use when deciding what action to take, the types of evidence that will be acceptable, and the steps LHC must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(I)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore LHC policies are needed.

Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

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

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and LHC-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Immediate family member is defined in section 16-VII.B.

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Stalking is defined in section 16-VII.B.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises [24 CFR 966.4(I)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the resident's household or guest, or any such activity engaged in on the premises by any other person under the resident's control is grounds for termination.

LHC Policy

The LHC will terminate the lease for drug-related criminal activity engaged in on or off the premises by any resident, member of the resident's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

The LHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

In making its decision to terminate the lease, the LHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LHC may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(I)(5)(i)(B)]

The lease must provide that a PHA may evict a family when LHC determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

LHC Policy

The LHC will terminate the lease when the LHC determines that a household member is illegally using a drug or the LHC determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

The LHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

In making its decision to terminate the lease, the LHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LHC may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(I)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including LHC management staff residing on the premises) or by persons residing in the immediate vicinity of the premises are grounds for termination of tenancy.

LHC Policy

The LHC will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including LHC management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

The LHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

In making its decision to terminate the lease, the LHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LHC may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(I)(5)(vi)(A)]

LHC must establish standards that allow termination of tenancy if the LHC determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

LHC Policy

The LHC will terminate the lease if the LHC determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

The LHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

In making its decision to terminate the lease, the LHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LHC may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(I)(5)(vi)(B)]

LHC must establish standards that allow termination of tenancy if the LHC determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

LHC Policy

The LHC will terminate the lease if the LHC determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The LHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the LHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LHC may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(I)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [24 CFR 5.2005(c)(1)].

LHC Policy

The LHC will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. Four late payments within a 12 month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

- To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose
- To abide by necessary and reasonable regulations promulgated by the LHC for the benefit and well-being of the development and the residents. These regulations shall be posted in the project office and incorporated by reference in the lease
- To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety
- To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition
- To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner
- To use, only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators
- To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project
- To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest
- To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, the LHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LHC may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(I)(2) and (5)(ii)(B)]

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause [24 CFR 966.4(I)(2)(ii)(B) and (C)]

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to

only those examples. The Violence against Women Act of 2005 explicitly prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, or stalking as “other good cause” for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1)].

LHC Policy

The LHC shall terminate the lease for the following reasons.

Fugitive Felon or Parole Violator: If a resident is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

Persons subject to sex offender registration requirement: If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery after admission of facts that made the resident ineligible

Discovery of material false statements or fraud by the resident in connection with an application for assistance or with reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for the LHC to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the LHC that such a dwelling unit is available

Failure to permit access to the unit by the LHC after proper advance notification for the purpose of performing routine inspections and maintenance, making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform the LHC of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.

Failure to abide by the provisions of the LHC pet policy

Failure to abide by the provisions of the LHC smoke-free policy

If the family has breached the terms of a repayment agreement entered into with the LHC

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward LHC personnel.

Abusive or violent behavior towards LHC personnel: includes verbal as well as physical abuse or violence. Use of racial epithets, or other

language, written or oral, that is customarily used to intimidate shall be considered abusive or violent behavior.

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

In making its decision to terminate the lease, LHC will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, LHC may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, LHC has a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

LHC Policy

The family must supply any information or certification requested by LHC to verify that the family is living in the unit, or relating to family absence from the unit, including any LHC-requested information or certification on the purposes of family absences. The family must cooperate with LHC for this purpose.

The family must promptly notify LHC when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 30 consecutive days, and the family does not adequately verify that they are living in the unit; LHC will terminate the lease for other good cause.

Abandonment: If the family appears to have vacated the unit without giving proper notice, LHC will follow state and local landlord-tenant laws pertaining to abandonment before taking possession of the unit. If necessary, LHC will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, HUD authorizes LHC to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, LHC may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require LHC to evict over-income residents, but rather gives LHC the discretion to do so thereby making units available for applicants who are income-eligible.

LHC Policy

The LHC will not evict or terminate the tenancies of families solely because they are over income.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(I)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the LHC may consider exclusion of the culpable household member. Such an alternative can be used, by LHC policy, for any other reason where such a solution appears viable.

LHC Policy

The LHC will consider requiring the resident to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon LHC request. In most cases LHC will require original documents to be submitted as proof the family member has left the household. Additionally LHC may require 3rd party verification.

Repayment of Family Debts

LHC Policy

If a family owes debts to LHC, as a condition of continued occupancy, LHC will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the LHC of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

LHC has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the LHC to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

LHC Policy

The LHC will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more

probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 966.4(I)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that LHC may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

LHC Policy

The LHC will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, or stalking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of the LHC's failure to terminate the tenancy

The effect of the LHC's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

Consideration of Rehabilitation [24 CFR 966.4(I)(5)(vii)(D)]

HUD authorizes LHC to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

LHC Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, LHC will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

For this purpose LHC will require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation [24 CFR 966.7]

If the family includes a person with disabilities, LHC decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

LHC Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, LHC will determine whether the behavior is related to the disability. If so, upon the family's request, LHC will determine whether alternative measures are appropriate as a reasonable accommodation. LHC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(I)(5)(vii)(F)]

LHC's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2005 (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, or stalking. For general VAWA requirements and LHC policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that "criminal activity directly related to domestic violence, dating violence, or stalking, engaged in by a member of a resident's household or any guest or other person under the resident's control, shall not be cause for termination of tenancy of, occupancy rights of, or assistance to the victim, if the resident or immediate family member of the tenant is the victim" [24 CFR 5.2005(c)(2)].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1)].

Limits on VAWA Protections [24 CFR 5.2005(d) and (e)]

While VAWA prohibits a PHA from using domestic violence, dating violence, or stalking as the cause for a termination or eviction action against a public housing resident who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, or stalking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other residents.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing resident if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that resident's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

LHC Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the LHC will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or resident other than the victim of domestic violence, dating violence, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within a short period of time

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest the LHC's determination that he or she is an actual and imminent threat to other residents or employees, the resident may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

LHC Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, the LHC will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The LHC reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the LHC will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a tenant or lawful occupant" [24 CFR 5.2009(a)]. Moreover, HUD regulations impose on the PHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming the PHA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

LHC Policy

The LHC will bifurcate a family's lease and terminate the tenancy of a family member if the LHC determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members.

In making its decision, the LHC will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the LHC by the victim in accordance with this section and section 16-VII.D. The LHC will also consider the factors in section 13.III.E. Upon such consideration, the LHC may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the LHC does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, the LHC will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the LHC may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes LHC to conduct criminal records checks on public housing residents for lease enforcement and eviction. LHC policy determines when LHC will conduct such checks.

LHC Policy

LHC will conduct criminal records checks when it has come to the attention of the LHC, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The LHC may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(I)(5)(iv)]

In conducting criminal records checks, if LHC uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before

any adverse action is taken. In such cases if LHC obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, LHC must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

LHC Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, LHC will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information upon request and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of LHC notice, to dispute the accuracy and relevance of the information. If the family does not contact LHC to dispute the information within that 10 business day period, LHC will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine LHC documents directly relevant to the termination or eviction. If LHC does not make the documents available for examination upon request by the tenant, LHC may not proceed with the eviction [24 CFR 996.4(m)].

When LHC is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the LHCs grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When LHC is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by LHC for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the

health, safety, or right to peaceful enjoyment of the premises of other residents or employees of LHC, or for a drug-related criminal activity on or off the premises.

LHC Policy

The LHC will attempt to deliver notices of lease termination directly to the resident or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include information about the protection against termination provided by the Violence against Women Act of 2005 (VAWA) for victims of domestic violence, dating violence, or stalking (see section 16-VII.C). Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(I)(3)(i)]

LHC must give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

If the health or safety of other residents, LHC employees, or persons residing in the immediate vicinity of the premises is threatened

If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

If any member of the household has been convicted of a felony

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

LHC Policy

The LHC will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations the LHC will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(I)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When LHC finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

LHC Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with LHC either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for LHC's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. LHC may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

LHC Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the LHC will follow state and local landlord-tenant laws in filing an eviction action with the local court with jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the LHC will remove the family from the premises per state and local law.

The PHA may not proceed with an eviction action if the PHA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(I)(5)(iii)(B)]

When LHC evicts an individual or family for criminal activity, including drug-related criminal activity, LHC must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

LHC Policy

A written record of every termination and/or eviction will be maintained by LHC at the development where the family was residing, and will contain the following information:

Name of resident, number and identification of unit occupied

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)

Date and method of notifying the resident

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

If the resident moved out owing a debt to LHC, or if there was another adverse reason which resulted in a move out (e.g., eviction, abandonment, criminal activity, etc.), LHC will report the amount owed and/or adverse reason for termination in HUD's EIV System via the Debts Owed to PHAs and Terminations Report (OMB No. 2577-0266).

Chapter 14
GRIEVANCES AND APPEALS

[24 CFR 966.50-966.57]

INTRODUCTION

The hearing requirements defined in HUD regulations are applicable to Families who disagree with an action, decision or inaction of LHC. Grievances will be resolved based on the Grievance Policy in effect at the time the grievance arose. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not LHC's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL APPLICANT REVIEW FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When LHC makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses LHC policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL APPLICANT REVIEW [24 CFR 960.208(a)]

Informal applicant hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded residents in LHC's grievance procedure [24 CFR 966.53(a)]

Applicants who are determined ineligible, who do not meet LHC's admission standards, or for whom LHC does not have an appropriate size and type of unit in its inventory will be given prompt written notification, including the reason(s) for the determination.

Use of Informal Applicant Review

While LHC must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, LHC could make the informal hearing process available to applicants who wish to dispute other -LHC actions that adversely affect them.

LHC Policy

The LHC will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208 (a)]

Ineligible Applicants will be promptly provided with a letter detailing their individual status stating the reason(s) for their ineligibility and offering them an opportunity for an informal review.

Applicants must submit their request for an informal review in writing, to LHC within fourteen (14) calendar days from the date of the notification of their ineligibility.

Scheduling an Informal Review

If the Applicant requests an informal hearing, LHC will provide an informal review within fourteen (14) calendar days of receiving the request. LHC will notify the Applicant of the place, date and time of the informal review.

Conducting an Informal Review

An impartial review officer will conduct informal reviews. The person who is designated as the review officer cannot be the person who made the determination of ineligibility or a subordinate of that person.

The Applicant may bring to the review any documentation or evidence s/he wishes and the evidence, along with the data compiled by LHC, will be considered by the review officer.

Informal Review Decision

The review officer will make a determination based upon the merits of the evidence presented by both sides. In rendering a decision, LHC will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice.

The validity of grounds for denial of admission: If the grounds for denial are not specified in the regulations or in LHC policy, then the decision to deny assistance will be overturned. See Chapter 2 for a detailed discussion of the grounds for

applicant denial.

The validity of the evidence: LHC will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, LHC will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, LHC will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

LHC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 14 calendar days of the informal review, to the applicant and his or her representative, if any. A copy of the decision will be placed in the Applicant's file and remain there for a minimum of 3 years.

If the informal review decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified. LHC may offer an additional review if the applicant contacts LHC prior to the review due to a conflict. The applicant may request one new review; however, this request must be made prior to the original review.

The Grievance procedures for Residents do not apply to LHC determinations that affect Applicants.

LHC must provide the family with a written notice of the final decision, based solely on the facts presented at the informal review, within 14 calendar days of the date of the informal review. The notice must state the basis for the decision.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and LHC must consider such accommodations. LHC must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal reviews used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while LHC's hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal review.

A decision against a family member, issued in accordance with the USCIS appeal process or LHC informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 2 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a resident, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal review process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When LHC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, LHC must notify the family of the results of the USCIS verification. The family has 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide LHC with a copy of the written request for appeal and proof of mailing within 14 calendar days of sending the request to the USCIS.

LHC Policy

LHC will notify the family in writing of the results of the USCIS secondary verification within 14 calendar days of receiving the results.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to LHC, of its decision. When the USCIS notifies LHC of the decision, LHC must notify the family of its right to request an informal hearing if the decision is not favorable.

LHC Policy

LHC will send a written notice of its right to request an informal hearing to the family within 14 calendar days of receiving an unfavorable notice of the USCIS decision regarding the family's immigration status.

Informal Review Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that LHC provide an informal review. The request for a review must be made either within 14 days of receipt of LHC notice of denial, or within 14 days of receipt of the USCIS appeal decision.

LHC will only offer informal review to applicants for the purpose of disputing denials of admission. Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the

opportunity to dispute the information in those records which would be the basis of the denial.

The informal review procedures for applicant families are described below.

Informal Review Officer

LHC must provide an informal review before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy, at the family's expense, at a reasonable time in advance of the review, any documents in the possession of LHC pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the review.

The family will be allowed to copy any documents related to the review at the expense of the grievant. The family must request discovery of LHC documents no later than 12:00 p.m. on the business day prior to the review.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by LHC, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the informal review, at the expense of the family, or LHC, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, LHC is obligated to provide oral translation services in accordance.

Recording of the Informal Review

The family is entitled to have the review recorded by audiotape.

LHC or the Grievant may arrange, in advance, in writing, and at the expense of the

party making the arrangements, for a transcript or audiotape of the informal review. Either party may purchase a copy of the transcript.

Hearing Decision

LHC must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision

Retention of Documents [24 CFR 5.514(h)]

LHC must retain for a minimum of 3 years the following documents that may have been submitted to LHC by the family, or provided to LHC as part of the USCIS appeal or LHC's informal review process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal review
- The final informal review decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that LHC provide a hearing. The request for a hearing must be made either within 30 days of receipt of LHC notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

LHC must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any LHC action or failure to act involving the lease or LHC policies which adversely affect their rights, duties, welfare, or status.

LHC grievance procedure must be included in, or incorporated by reference in, the lease.

LHC Policy

LHC grievance procedure will be incorporated by reference in the tenant lease.

LHC must provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in LHC grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by LHC before adoption of any grievance procedure changes by LHC.

LHC Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by LHC of any proposed changes in LHC grievance procedure, to submit written comments to LHC.

LHC must furnish a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS

Grievance

Any dispute which a Resident may have with respect to a LHC action or failure to act in accordance with the Resident's Lease or LHC rules which adversely affect the Resident's rights, duties, welfare, or status.

Grievant

Any Resident whose grievance is presented to LHC informally or as part of the hearing process.

Hearing Officer/Hearing panel

A person or persons selected to hear grievances and render a decision regarding the grievance.

Resident

A lessee or the remaining head of household of any Resident Family residing in housing accommodations owned or leased by LHC.

Elements of Due Process

An eviction action or a termination of tenancy in a court in which the following procedural safeguards are required:

- Adequate notice to the Resident of the grounds for terminating the tenancy;

- For the purpose of preparing a defense, the opportunity for the Resident to examine all relevant documents, records and regulations of LHC prior to the hearing.
- Right of the Resident to be represented by counsel;
- The opportunity for the Resident to refute the evidence presented by LHC including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the Resident may have; and
 - A decision on the merits of the case.
- If due process, then PHA MAY exclude from its Grievance procedures (24 CFR §966.51(a) (2) :
 - Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA
 - Any violent or drug-related criminal activity on or off such premises; or
 - Any criminal activity that resulted in felony conviction of a household Member

LHC is not located in a due process state therefore it must grant opportunity for grievance hearings for all lease terminations, regardless of cause.

Housing Authority Eviction Action

If a Resident has requested a formal hearing on a Grievance involving a LHC Termination of Tenancy and the Hearing Officer or Panel upholds LHC's action, LHC shall not commence an eviction action until it has served a Notice to Quit or Termination of Tenancy on the Resident.

14-III.C. APPLICABILITY

Potential grievances could address most aspects of LHC operations. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to LHC. It is not applicable to disputes between tenants not involving LHC. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of LHC.

If HUD has issued a due process determination, LHC may exclude from the LHC grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of LHC

- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, LHC must grant opportunity for grievance hearings for all lease terminations, regardless of cause, but may use expedited grievance procedures, as described in Section 14-III.E., below to deal with the first two of the above three categories of lease terminations.

If HUD has issued a due process determination, LHC may evict through the state/local judicial eviction procedures. In this case, LHC is not required to provide the opportunity for a hearing under LHC's grievance procedure as described above.

LHC Policy

The LHC is not located in a due process state therefore it must grant opportunity for grievance hearings for all lease terminations, regardless of cause.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE

A grievance shall be presented in writing, signed and submitted to the Asset Manager that sent the notice or who is responsible for the action or inaction upon which the Grievance is based. A grievance submitted to another LHC development or building other than the one that is responsible for the action or inaction upon which the Grievance is based will not be accepted. The Grievance must be presented within fourteen (14) calendar days after the date of the action or failure to act which is the basis for the Grievance. It may be simply stated, but shall specify:

- The particular grounds upon which it is based;
- The action requested; and
- The name, address and telephone number of the Grievant and similar information about the Grievant's representative, if any.

There shall be an informal settlement conference between the Asset Manager and the Grievant to discuss and to resolve the Grievance without the necessity of a formal hearing. Within fourteen (14) calendar days after the hearing, the Asset Manager will respond, in writing, to the Grievant. If there is no settlement, the response will contain information regarding the steps by which a formal hearing may be requested.

Informal Hearing as a Prerequisite

All Grievances must have been through an informal settlement conference as a prerequisite to a formal hearing.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request [24 CFR966.55 (a), (c), and (d)]

If the Grievant does not timely request a formal hearing, s/he waives his/her right to a formal hearing and LHC's informal settlement conference disposition of the Grievance will become final. This section in no way constitutes a waiver of the Grievant's right to contest LHC's disposition in an appropriate judicial proceeding.

If the Grievant is dissatisfied with the disposition of the Grievance, s/he shall be entitled to a formal hearing before a Hearing Officer or Panel. A written, signed request for a formal hearing shall be submitted within fourteen (14) calendar days of the receipt of the response to the informal hearing.

The request for a formal hearing must be presented to the Asset Manager that sent the informal settlement decision. The request must specify the reason(s) that the decision made at the informal hearing was incorrect and the relief sought.

The head of household or other adult household member must attend the formal hearing.

If the Grievant needs to reschedule the hearing, the grievant must request the hearing be rescheduled at least seven (7) calendar days in advance of the scheduled hearing date or the Grievant waives his/her right to a formal hearing. If the Grievant fails to appear within fifteen (15) minutes of the scheduled grievance hearing time, the Grievant waives his/her right to a formal hearing.

Upon request by the Grievant, LHC will provide a reasonable accommodation for persons with disabilities to participate in the formal hearing. These requests must be received by LHC at least 48 hours before the scheduled formal hearing time.

Escrow Deposits [24 CFR 966.55 (e)]

Before a formal hearing is scheduled in any Grievance involving rent LHC claims is due, the Grievant shall pay LHC all rent due and payable as of the month proceeding the month in which the act or failure to act took place.

The Grievant shall thereafter deposit the monthly rent in an escrow account each month until the Grievance is resolved by decision of the Hearing Officer or Panel. Proof that an escrow account is being maintained must be provided to the Asset Manager. LHC must waive the requirement for an escrow deposit for Families who meet the financial hardship exemption from minimum rent requirements. Unless so waived, failure to make the required escrow payments shall result in termination of the Grievance procedure.

Failure to make such payments does not constitute a waiver of any right the Grievant may have to contest LHC's disposition of the Grievance in any appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.55 (f)]

If the Grievant complies with the procedures outlined above, a formal hearing shall be scheduled by the Hearing Officer or Panel within fourteen (14) calendar days of receiving the request for a hearing at a time and place reasonably convenient to the Grievant and LHC.

A written notification of the date, time, place and procedures governing the formal hearing shall be delivered to the Grievant and the appropriate LHC official.

Expedited Grievance Procedure [24 CFR 966.55(g)]

The PHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the PHA, or
- Any drug-related criminal activity on or near such premises

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The PHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

LHC Policy

The LHC will follow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the LHC, or any drug-related criminal activity on or near such premises.

Such procedures will provide for an expedited notice of hearing request, an expedited scheduling of the hearing, and for an expedited decision on the grievance. The tenant will have 3 business days to make their hearing request. The hearing officer will have 3 business days to schedule the hearing, and 3 business days to render a decision. All other aspects of the expedited grievance process shall be the same as for other grievances.

14-III.F. SELECTION OF HEARING OFFICER/PANEL [24 CFR 966.55 (b)]

A formal hearing shall be conducted by an impartial person or panel appointed by LHC other than the person who made or approved LHC action under review or a

subordinate of such person.

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56 (b)]

The Grievant shall be afforded a fair hearing and be provided the basic safeguards of due process to include:

- The Grievant shall have the opportunity to examine and to copy, at the expense of the Grievant, all LHC documents, records and statements that the Grievant plans to submit during the hearing to refute LHC's inaction or proposed action. Any such documents not made available by LHC may not be relied upon by LHC at the formal hearing;
- The right to a private hearing unless otherwise requested by the Grievant;
- The right to be represented by counsel or other person chosen as a representative;
- The right to present evidence and arguments in support of the Grievance, to controvert evidence relied on by LHC, and to confront and cross examine all witnesses upon whose testimony or information LHC relies, limited to the issues for which the Grievant has received the opportunity for a formal hearing; and
- The right to a decision based solely and exclusively upon the facts presented at the hearing.

Decision without Hearing [24 CFR 966.56 (c)]

If the Hearing Officer or Panel determines that the issue has been previously decided in another proceeding, a decision may be rendered without proceeding with the formal hearing.

Failure to Appear [24 CFR 966.56 (d)]

If the Grievant or LHC fails to appear at the scheduled hearing, the Hearing Officer or Panel may:

- postpone the hearing for a period not to exceed seven (7) calendar days, or
- Make a determination that the party has waived his/her right to a formal hearing.

Such a determination in no way waives the Grievant's right to appropriate judicial proceedings.

General Procedures [24 CFR 966.56 9 (e), (f), and (g)]

At the hearing, the Grievant must first make a showing of an entitlement to the relief sought and thereafter LHC must sustain the burden of justifying its action or failure to act against which the Grievance is directed.

The hearing shall be conducted informally as follow:

- Oral and documentary evidence pertinent to the facts and issues raised by the Grievant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings; and
- The Hearing Officer or Panel shall require LHC, Grievant, counsel and other participants and spectators to conduct themselves in an orderly manner. Failure to comply with the directions of the Hearing Officer or Panel to maintain order will result in exclusion from the proceedings, or a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

LHC or the Grievant may arrange, in advance, in writing, and at the expense of the party making the arrangements, for a transcript or audiotape of the hearing. Either party may purchase a copy of the transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(h)]

LHC must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of LHC's responsibilities pertaining to reasonable accommodation.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL

The Hearing Officer or Panel shall give LHC and the Grievant a written decision, including the reason(s) for the decision, within fourteen (14) calendar days following the formal hearing. LHC will place one (1) copy in the Resident's file and maintain another copy in a separate file for a minimum of 3 years. The written decision will be sent to the Resident's address provided at the formal hearing.

The decision of the Hearing Officer or Panel shall be binding on LHC.

A decision by the Hearing Officer or Panel in favor of LHC or which denies the relief requested by the Grievant, in whole or part, shall not constitute a waiver of nor affect in any manner, the rights of the Grievant to appropriate judicial review.

This is part of the decision of the Hearing Officer (just more in depth)

The hearing officer will issue a written decision to the family and LHC no later than 30 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant

Date, time and place of the hearing

Name of the hearing officer

Name of the PHA representative(s)

Name of family representative (if any)

Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the PHA to restore the family's status.

Procedures for Further Hearing

LHC Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the LHC will take effect and another hearing will not be granted.

CHAPTER 15

PROGRAM INTEGRITY

INTRODUCTION

LHC is committed to assure the proper level of benefits is paid to all Residents, and housing resources reach only income-eligible Families so the program integrity can be maintained.

LHC will take all steps necessary to prevent fraud, waste, and mismanagement so the program resources are utilized judiciously.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse.

This Chapter outlines LHC's policies for the prevention, detection and investigation of program abuse and Resident fraud.

Part II: Corrective Measures and Penalties. This Part describes the corrective measures LHC must and may take when errors or program abuses are found.

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

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

LHC will utilize various methods and practices to prevent program abuse, non-compliance, and willful violations of program rules by Applicants and Resident Families.

Things You Should Know. This is a program integrity bulletin created by HUD's Inspector General that will be furnished and explained to all Applicants to promote understanding of program rules and to clarify LHC's expectations for cooperation and compliance.

Program Orientation Session. Mandatory orientation sessions will be conducted by the Asset Manager or Assistant Asset Manager for all Applicants before execution of the Lease. At the conclusion of all Program Orientation Sessions, the Family head of household will be required to sign a "Program Briefing Certificate/Resident Orientation Form" to confirm all rules and pertinent regulations were explained to them.

Resident Counseling. LHC will routinely provide Resident counseling as a part of every re-certification interview in order to clarify any confusion pertaining to program rules and requirements.

Review and explanation of Forms. LHC will explain all required forms and review the contents of all re-certification documents prior to signature by the head of household.

Use of Instructive Signs and Warnings. Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

Resident Certification. All Family representatives will be required to sign a "Resident Certification" form, as contained in HUD's Resident Integrity Program Manual.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

LHC staff shall maintain a high level of awareness on indicators of possible abuse and fraud by Residents.

Quality Control File Reviews. Prior to initial certification, and at the completion of all subsequent re-certifications, each Family's file will be reviewed. Such reviews shall include, but are not limited to:

- Changes in reported Social Security numbers or dates of birth.
- Authenticity of file documents.
- Ratio between reported income and expenditures.
- Review of signatures for consistency with previously signed file documents.

Observation. LHC staff shall observe and monitor circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

Management and Staff may review Public Record Bulletins.

State Wage Data Record Keepers. LHC may periodically make Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, in order to detect unreported wages or unemployment compensation benefits

EIV System

Credit Bureau Inquiries. LHC may make Credit Bureau in the following circumstances:

- At the time of final eligibility determination;
- When LHC receives an allegation disclosing unreported income sources; or
- When a Resident's expenditures exceed his /her reported income and no plausible explanation is given.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of LHC activities and notifies LHC of errors and potential cases of program abuse.

LHC Policy

LHC will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of LHC's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

LHC Policy

LHC will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

Under no circumstances will LHC undertake an inquiry or an audit of a Family arbitrarily. LHC's expectation is that Families will comply with HUD requirements, provisions of the Lease, and other program rules. LHC staff will make every effort (formally and informally) to orient and educate all Families in order to avoid unintentional violations. However, LHC has a responsibility to monitor Residents' Lease obligations for compliance and, when indicators of possible abuse come to LHC's attention, to investigate such claims.

LHC will initiate an investigation of a Family only in the event of one (1) or more of the following circumstances:

Referrals, Complaints, or Tips. LHC will follow up on referrals from other agencies, companies or persons that are received by mail, by telephone or in person, which allege a Family is in non-compliance with, or otherwise violating the Lease or the program rules. Such follow-up will be made if the referral contains at least one (1) item of information that is independently verifiable. A copy of the allegation will be retained in the Family's file.

Internal File Review. A follow-up will be made if LHC discovers (as a function of a re-certification, an interim re-certification, or a quality control review), information or facts, which conflict with previous file data, and LHC's knowledge of the Family, or it differs with statements made by the Family.

Verification or Documentation. A follow-up will be made if LHC receives independent verification or documentation, which conflicts with representations in the Resident file (such as public record information, credit bureau reports, or reports from other agencies).

Consent to Release of Information [24 CFR 960.259]

LHC may investigate possible instances of error or abuse using all available LHC and public records. If necessary, LHC will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

LHC Policy

LHC will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation LHC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed LHC, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether LHC will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

LHC Policy

In the case of family-caused errors or program abuse, LHC will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

LHC Policy

LHC will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will

include (1) a description of the error or program abuse, (2) the basis on which
Lansing Housing Commission ACOP Page 15-4 April 2013

LHC determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, LHC must promptly correct the tenant rent and any utility reimbursement prospectively.

LHC Policy

Increases in the tenant rent will be implemented only after the family has received 30 day notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse LHC or LHC is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows LHC to use incorrect information provided by a third party.

Family Reimbursement to LHC

LHC Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. LHC may, but is not

required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the LHC will terminate the family's lease in accordance with the policies in Chapter 13.

PHA Reimbursement to Family

LHC Policy

LHC will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to LHC [24 CFR 960.259(a) (4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l) (2)(iii)(C)].

LHC Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to LHC's Board of Commissioners, employees, contractors, or other LHC's representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to LHC on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

LHC may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family LHC may, at its discretion, impose any of the following remedies.

- LHC may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to LHC).
- LHC may require, as a condition of receiving or continuing assistance, a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- LHC may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- LHC may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of LHC staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a LHC staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in LHC's personnel policy.

LHC caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to LHC

The family is not required to repay an underpayment of rent if the error or program abuse is caused by LHC staff.

PHA Reimbursement to Family

LHC Policy

LHC will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

LHC Policy

Any of the following will be considered evidence of program abuse by LHC staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to LHC

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of LHC activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

15-II.D. CRIMINAL PROSECUTION

LHC Policy

When LHC determines program abuse by a family or LHC staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, LHC will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

LHC entering into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that LHC recovers [Notice PIH 2005-7 (HA)].

If LHC does none of the above, all amounts constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through LHC grievance process.

CHAPTER 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of LHC-furnished utilities.

Part II: Establishing Flat Rents and Public Housing Maximum Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts and public housing maximum rents.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which the PHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how LHC is scored under PHAS, and how those scores affect a LHC.

Part V: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies LHC will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes LHC's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

LHC must establish allowances for LHC-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

LHC must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

LHC must establish separate allowances for each utility and for each category of dwelling units LHC determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a LHC in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if LHC does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and setting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the PHA about establishing utility allowances.

Air-Conditioning

“If a LHC installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the

energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)].

Utility Allowance Revisions [24 CFR 965.507]

LHC must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

LHC may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

LHC Policy

Between annual reviews of utility allowances, LHC will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for PHA-furnished utilities where check meters have been installed, the PHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the PHA's average utility rate. The basis for calculating the surcharges must be described in the PHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the PHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by PHA-furnished utilities where check meters have not been installed, the PHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of PHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the PHA of the

utility consumption estimated to be attributable to reasonable usage of such equipment.

LHC Policy

The LHC does have LHC-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

LHC must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where LHC's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, LHC must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how LHC establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b)]

Establishing Flat Rents

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent should be equal to the estimated rent for which the PHA could promptly lease the public housing unit after preparation for occupancy.

The PHA must use a reasonable method to determine flat rents. In determining flat rents, LHC must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA

Review of Flat Rents

LHC must ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b)].

LHC Policy

LHC will review flat rents on an annual basis, and adjust them as necessary to ensure that flat rents continue to mirror market rent values if there is a change of 10% or more. Flat rents are determined on a per property basis except for Scattered Sites which utilizes a per bedroom schedule.

Posting of Flat Rents

LHC Policy

LHC will publicly post the schedule of flat rents in a conspicuous manner in the applicable LHC or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

LHC must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the PHA in accordance with this method.

16-II.C. PUBLIC HOUSING MAXIMUM RENTS **Establishing Public Housing Maximum Rents**

LHC is prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status [24 CFR 5.500]. Therefore, in order to assist mixed families, PHAs must prorate assistance. Public housing maximum rents are needed in order to calculate the tenant rent for a mixed family.

The public housing maximum rent is based on value of the 95th percentile of the total tenant payment (TTP) for each tenant within LHC. LHC may calculate a maximum rent on either a LHC- or Development. A separate maximum rent can be provided for each separate development or developments may be combined into logical groups, if appropriate. HUD recommends that a single project basis be avoided for a project unless at least 50 dwelling units are involved.

LHC may use the “direct comparison” or the “unit distribution” method for establishing the public housing maximum rents for each unit size. Appendix H, of Guidebook 7465.G, Restrictions on Assistance to Noncitizens provides detailed guidance on how to establish public housing maximum rents using the methodologies identified above.

Review of Public Housing Maximum Rents

LHC Policy

The LHC will review the public housing maximum rents on an annual basis. If there is more than a 10% change in the market comparable than LHC will undertake a new Flat Rent study.

Posting of Public Housing Maximum Rents

LHC Policy

The LHC will publicly post the schedule of public housing maximum rents in a

conspicuous manner in the applicable LHC or project office.

Documentation of Public Housing Maximum Rents

LHC Policy

The LHC will maintain records that document how the LHC determined the 95th percentile of TTP, whether the maximum rent was determined LHC-wide, project-wide, or with groupings of projects, and the methodology used to determine maximum rents for each unit size.

PART III: FAMILY DEBTS TO THE PHA

16-III.A. OVERVIEW

This Chapter describes LHC's policies for recovering monies, which have been underpaid by Families. It describes the methods that will be utilized to collect debts and the guidelines for different types of debts.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, LHC will terminate the family's tenancy in accordance with the termination policies in Chapter 11. LHC will use any and all available collection tools to recover debts.

16-III.B. REPAYMENT POLICY

Family Debts to the PHA

A Repayment Agreement as used in this ACOP is a document entered into between LHC and a Resident who owes a debt to LHC. If the amount owed is no less than \$250 and no more than \$2,500.00, LHC will enter into a Repayment Agreement with a Resident who is in good standing regarding all other Lease provisions, who has not entered into a Repayment Agreement with LHC within the last 12 months and who has not violated a Repayment Agreement with LHC within the last five (5) years.

A Family must request to enter into a Repayment Agreement must be requested by the resident within 14 calendar days of the date on the Balance Owed Letter.

25% of the amount to be paid under the Repayment Agreement must be paid at the time the Resident signs the Repayment Agreement.

After 25% of the total debt owed is paid, the resident's monthly payment shall be determined based on 40% of the resident's adjusted monthly income but not less than \$25.00 per month. Per Notice PIH 2010-19, the monthly payment plus the amount of the resident's total tenant payment (TTP) at the time the repayment agreement is executed should not exceed 40% of the family's monthly adjusted income.

The time period for repayment will be determined based on the time it will take to repay the debt owed based on 40% of the resident's adjusted monthly income and cannot exceed 12 months.

Example:

- Family's monthly adjusted income is \$1230.
- Family's monthly total tenant payment (TTP) is \$369 (30% of the family's monthly adjusted income)
- 40% of the family's monthly adjusted income is \$492
- The monthly payment for the repayment agreement is \$123 per month ($\$492 - \$369 = \123) ($\$369 \text{ monthly TTP} + \$123 \text{ repayment} = \492 , 40% of the family's monthly adjusted income.) or the \$25.00 minimum whichever is greater
- NOTE: \$123.00 is the minimum monthly payment due. Resident's may pay more than the required monthly payment. However, the minimum payment **must** be paid each month.

This calculation may result in a monthly repayment amount of zero for some families. However, as stated above, the minimum monthly repayment agreement amount is set at \$25.00.

General Repayment Agreement Guidelines

Down Payment Requirement

LHC Policy

Before executing a repayment agreement with a family, LHC will generally require a down payment maximum of 10 percent of the total amount owed. If the family can provide evidence satisfactory to LHC that a maximum down payment of 10 percent would impose an undue hardship, LHC may, in its sole discretion, require a lesser percentage or waive the requirement. Note: the down payment as well as the monthly payment cannot exceed 40% of a families monthly income.

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered “affordable.” Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

LHC Policy

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in

rent, the minimum monthly payment amount will be the greater of the following two amounts:

The difference between 40 percent of the family's MAI and the total family share at the time the agreement is executed.

If a family can provide evidence satisfactory to the LHC that a monthly payment amount of \$25 would impose an undue hardship, the LHC may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement, either the LHC or the family may request that the monthly payment amount be adjusted accordingly.

Execution of the Agreement

Repayment Agreements will be executed between LHC and the head of household and spouse/co-head(s) of household (if applicable).

All repayment agreements will:

- Include the total retroactive rent amount owed, the lump sum amount paid when the agreement is executed, the number of required monthly payments, and the monthly payment amount,
- Include a statement that the monthly retroactive rent repayment amount is in addition to the family's monthly rent payment and is payable to LHC.
- State late and/or missed payments constitute a default of the Repayment Agreement and shall result in termination of tenancy.
- Require the head of household, spouse/co-head(s) (if applicable) and LHC sign and date the document.

LHC shall not apply a resident's monthly rent payment towards the repayment amount owed. The monthly payment due on the repayment agreement is in addition to the tenant's monthly rent payment.

Payments made by the resident for a higher amount than agreed upon will be accepted and encouraged. If a resident pays a higher amount than required by the repayment agreement he/she may not skip subsequent payments which are due. The minimum monthly payment amount must occur each month.

Due Dates

LHC Policy

All payments are due by the close of business on the 15th calendar day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Late Payments

The due date for the payment is the 1st day of the month.

A payment is late (in arrears) if the payment is not received by the close of the calendar day on which the payment is due. If the due date is on a weekend or holiday, the due date is at the close of the next business day.

If the Family fails to make a payment as required by the Repayment Agreement, LHC requires the Family to pay the balance in full immediately. LHC will terminate the lease of families who violate the Repayment Agreement.

Families who have a Repayment Agreement in place are not eligible for a non-administrative transfer.

Multiple Repayment Agreements Not Allowed

A Family may not have more than one (1) Repayment Agreement with LHC at a time.

DEBTS DUE TO FRAUD OR NON-REPORTED INFORMATION

The definition of program fraud and/or abuse is a single act or pattern of actions that constitutes false statements, omission, or concealment of a substantive fact, made with intent to deceive or mislead.

If LHC determines the resident did not report and/or underreported his/her income, LHC must go back to the time the unreported and/or underreported income started, not to exceed the 5 year limitation that the tenant was receiving assistance described on forms HUD-9887, -9887-A, and calculate the difference between the amount of rent the resident should have paid and the amount of the rent the resident was charged. LHC will notify the resident of any amount due and their obligation to reimburse LHC. A record of this calculation will be provided to the resident and also retained in the resident's file. Residents with unreported and/or underreported income that goes back further than 5 years will be reported to HUD Office of Inspector General for fraud.

Program Fraud

LHC may elect to exercise the following options in cases of program fraud and/or abuse:

- Families that owe up to \$2,500.00 - \$8,000.00 to LHC due to program fraud and/or abuse will not be offered the opportunity to enter into a repayment agreement and LHC will seek to terminate the lease.
- If a Family owes more than \$8,000.00 as a result of program fraud and/or abuse, LHC will terminate the Lease, refer the case to the HUD Office of Inspector General, and pursue any and all available collection tools to recover all

money due.

- LHC will only enter into one Repayment Agreement, per family, for repayment of money due because of program fraud and/or abuse during its entire tenancy.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the PHA's projects

Maximum Score: 40

- The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.
- To determine the physical condition of a PHA's projects, inspections are performed of the following five major areas of each public housing project: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in each project in the PHA's public housing portfolio.

Indicator 2: Financial condition of the PHA's projects

Maximum Score: 25

- The objective of this indicator is to measure the financial condition of the PHA's public housing projects for the purpose of evaluating whether the PHA has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- A PHA's financial condition is determined by measuring each public housing project's performance in each of the following subindicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of the PHA's projects

Maximum Score: 25

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA's projects for the purpose of assessing the PHA's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund

Maximum Score: 10

- The objective of this indicator is to measure how long it takes the PHA to obligate capital funds and to occupy units.
- The PHA's score for this indicator is measured at the PHA level and is based on the following subindicators: timeliness of fund obligation and occupancy rate.

16-IV.C. PHAS SCORING [24 CFR 902 Subpart F]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the subindicators under each indicator. The PHA's indicator scores are based on a weighted average of the PHA's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performing, standard, substandard, or troubled.

A high performer is a PHA that achieves an overall PHAS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a PHA that has an overall PHAS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- PHAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(1)].
- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(2)].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance [24 CFR 902.75].
- PHAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].

PART V: RECORD KEEPING

16-V.A. OVERVIEW

LHC must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, LHC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

LHC must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

LHC Policy

During the term of each public housing tenancy, and for at least four years thereafter, LHC will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, LHC will keep the following records for at least four years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents and the public housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation related to LHC
- Accounts and other records supporting LHC budget and financial statements for the program
- Other records as determined by the LHC or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

LHC must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

LHC Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized LHC staff.

LHC staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in progressive disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

LHC Policy

Prior to utilizing HUD's EIV system, the LHC will adopt and implement EIV security procedures required by HUD.

UIV/EIV Security Policy

Policy

The Lansing Housing Commission will utilize Upfront Income Verification (UIV) as the Commission's preferred method of verifying income. UIV refers to the LHC's use of verification tools available from independent sources that maintain computerized information about earning and benefits, including HUD's Eligibility Income Verification (EIV) system. The procedures listed in this document are designed to supplement the HUD Security Procedures.

All UIV system and related documents will only be used the purposes for which they were intended. The data is subject to the provisions of the Federal Privacy Act (5 U.S.C. § 552, As Amended by Public Law No. 104-231, 110 Stat. 3048), The Freedom of Information Act (5 U.S.C. § 552, As Amended By Public Law No. 104-231, 110 Stat. 3048), and related amendments.

In order to provide for proper security for data received through the UIV systems, the following procedures are hereby established.

Procedures

Authorized Users

1. EIV users shall be authorized by the Executive Director on a need-to-know basis.

Persons not employed by LHC shall not be authorized, and only those whose job duties specifically relate to UIV shall be granted access to the systems and related documents.

2. Only the following types of authorized users shall be allowed access to the UIV/EIV system by the Executive Director:

a. Persons whose job duties include the determination of rental payment charges

- b. Persons whose job duties include securing data obtained under UIV/EIV.
- c. Persons whose job duties include retrieving UIV/EIV data
- d. Persons whose job duties include reviewing UIV/EIV data for the purposes of performing UPCS and/or HQS inspections

3. The Executive Director will provide each user a User Access Form, and the user shall apply for a User ID and password as applicable. LHC's *Acceptable Computer Use Policy*, contains provisions specifically prohibiting sharing of User ID and Password data between users and is therefore hereby incorporated into this document by reference.

Executive Director's Responsibilities

- 1. The Executive Director shall appoint the UIV/EIV Security Officer.

Lansing Housing Commission UIV/EIV Security Policy

- 2. The Executive Director shall authorize users for access to EIV systems and data only where necessary.

The security officer will recertify each user in the EIV twice a year.

- 3. Each individual user will undergo annual security awareness training as well as complete a post training examination which is administered through the EIV system. Access will not be granted for an individual whom fails the examination.

- 4. The security officer shall be responsible for determining and reporting to the Executive Director any instances of improper disclosure of UIV/EIV data and/or unauthorized access of UIV/EIV computerized systems.

- a. Upon noting a security breach, the Executive Director shall immediately contact appropriate HUD personnel for removal of the offending parties from the EIV system.

- 5. The Executive Director shall monitor UIV/EIV procedures to ensure ongoing compliance. Procedures will be updated as needed.

Disclosure, Data Security and Disposition

- 1. Staff shall document that the LHC will make use of UIV/EIV systems at each annual recertification and to applicants during the application process. This disclosure shall include the following:

- A. A brief explanation of the UIV/EIV system
- B. A brief explanation of how income discrepancies are identified, the potential effect on rental calculations, and penalties for committing fraud
- C. A brief explanation of how discrepancies are resolved
- D. A brief explanation of the actions the LHC may take based on verified unreported or underreported income.

2. Each tenant and applicant file shall contain a properly completed, active HUD 9886 Form or equivalent, granting the LHC access to UIV/EIV data.

3. UIV/EIV data shall be kept in (a) locked, fire-resistant fire filing cabinet(s), and only those staff members who have been previously authorized by the Executive Director may be given keys and/or access to the data. The Executive Director shall maintain a list of users receiving keys. The filing cabinet(s) shall in turn be secured behind a door locked whenever the office is closed.

4. Proper disposition of UIV/EIV data shall be performed by cross-shredding.

Criminal Records

LHC may only disclose the criminal conviction records which LHC receives from a background check agency to officers or employees of LHC, or to authorized representatives of LHC who have a job-related need to have access to the information [24 CFR 5.903(e)].

LHC must establish and implement a system of records management that ensures that any criminal record received by LHC from background check agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to LHC action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

LHC must establish and implement a system of records management that ensures that any sex offender registration information received by LHC from the background agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to LHC's action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by LHC other than under 24 CFR 5.905.

Medical/Disability Records

LHC is not permitted to inquire about the nature or extent of a person's disability. LHC may not inquire about a person's diagnosis or details of treatment for a disability or

medical condition. If LHC receives a verification document that provides such information, LHC should not place this information in the tenant file. LHC should destroy the document.

Domestic Violence, Dating Violence, or Stalking Records

For requirements and LHC's policies related to management of documentation obtained from victims of domestic violence, dating violence, or stalking, see section 16-VII.E.

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

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

LHC has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

LHC must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. LHC must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

LHC Policy

LHC will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

LHC will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Act of 2005 (VAWA) provides special protections for victims of domestic violence, dating violence, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3,

“Eligibility” (sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (section 5-II.D); Chapter 8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.
 - The term *immediate family member* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
 - Any other person living in the household of that person and related to that person by blood and marriage.
- The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
- In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that

person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

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

LHC Policy

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

A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 16-1)

The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that the LHC may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking

A statement of the LHC's obligation to keep confidential any information that it receives from a victim unless (a) the LHC has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

LHC is required to inform public housing tenants of their rights under VAWA, including their right to confidentiality and the limits thereof. Since VAWA provides protections for

applicants as well as tenants, LHC may elect to provide the same information to applicants.

LHC Policy

The LHC will provide all applicants with information about VAWA at the time they request an application for housing assistance. The LHC will also include such information in all notices of denial of assistance (see section 3-III.F).

The LHC will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. The LHC will also include such information in all lease termination notices (see section 13-IV.D).

The VAWA information provided to applicants and tenants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

LHC is not limited to providing VAWA information at the times specified in the above policy. If LHC decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases LHC make alternative delivery arrangements that will not put the victim at risk.

LHC Policy

Whenever the LHC has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim.

16-VII.D. DOCUMENTATION [24 CFR 5.2007]

LHC presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. LHC may extend this time period at its discretion. [24 CFR 5.2007(a)]

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

- (1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking), which must include the name of the perpetrator

- (2) A federal, state, tribal, territorial, or local police report or court record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

LHC may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

LHC Policy

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

LHC may, in its discretion, extend the deadline for 10 business days. Any extension granted by the LHC will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where LHC receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, LHC may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

LHC Policy

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, the LHC will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

LHC has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal

documentation of abuse in accordance with 24 CFR 5.2007(b).

LHC Policy

If the LHC accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, or stalking, the LHC will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

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

16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

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

LHC Policy

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

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

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

The housing authority can still evict you if the housing authority can show there is an *actual and imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

Proving That You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, or stalking. It must give you at least 14 business days (i.e.,

Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

Confidentiality

The housing authority must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority to release the information.

If release of the information would put your safety at risk, you should inform the housing authority.

VAWA and Other Laws

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

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact

at _____.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a public housing applicant or tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines ***stalking*** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

ACRONYMS

ACC	Annual Contributions Contract
ADA	Americans Disabilities Act
AIDS	Acquired Immunodeficiency Syndrome
CBA	Credit Bureau Association
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations
DVV	Domestic Violence Victims
EID	Earned Income Disallowance
EITC	Earned Income Tax Credit
EIV	Enterprise Income Verification
FAS	Freely Associated States
FHEO	Fair Housing and Equal Opportunity
FMR	Fair Market Rent
FMV	Fair Market Value
FOIA	Freedom of Information Act
FSS	Family Self-Sufficiency (program)
HCDA	Housing and Community Development Act
HCV	Housing Choice Voucher
HCVGB	Housing Choice Voucher Guide Book
HMO	Health Maintenance Organizations
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
INS	U.S. Immigration and Naturalization Service

IRS	Internal Revenue Service
LHC	Lansing Housing Commission
NAHA	(Cranston-Gonzalez) National Affordable Housing Act
NCIC	National Crime Information Center
NOFA	Notice of Funding Availability
OIG	Office of Inspector General
OMB	(U.S.) Office of Management and Budget
PHA	Public Housing Authority
PHAS	Public Housing Assessment System
PHOCCGB	Public Housing Occupancy Guide Book
PIC	Public and Indian Housing Info
PIH	Public and Indian Housing
QHWRA	Quality Housing and Work Responsibility Act of 1998
RASS	Resident Assessment Sub System
REAC	Real Estate Assessment Center
SAVE	Systematic Alien Verification for Entitlements Program
SSA	Social Security Administration
SSI	Social Security Income
SSN	Social Security Number(s)
SWICA	State Wage Information Collection Agencies
TANF	Temporary Assistance to Needy Families
TTP	Total Tenant Payment
UIV	Upfront Income Verification
UPCS	Uniform Physical Condition Standards
USC	United States Code

USCIS	United States Citizenship and Immigration Services
VASH	Veterans Affairs Supportive Housing Program
VAWA	Violence Against Women Act