



## **Portsmouth Housing Authority**

# **Public Housing Admissions and Continuing Occupancy Policy**

**Last Updated March 2022**

**PORTSMOUTH HOUSING AUTHORITY  
ACOP TABLE OF CONTENTS**

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<b>1.0</b>	<b>FAIR HOUSING</b> .....	<b>1</b>
<b>2.0</b>	<b>REASONABLE ACCOMMODATION</b> .....	<b>2</b>
2.1	COMMUNICATION .....	2
2.2	QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION .....	2
<b>3.0</b>	<b>SERVICES FOR LIMITED ENGLISH PROFICIENCY APPLICANTS AND RESIDENTS</b>	<b>4</b>
<b>4.0</b>	<b>FAMILY OUTREACH</b> .....	<b>6</b>
<b>5.0</b>	<b>RIGHT TO PRIVACY</b> .....	<b>7</b>
<b>6.0</b>	<b>REQUIRED POSTINGS</b> .....	<b>8</b>
<b>7.0</b>	<b>TAKING APPLICATIONS</b> .....	<b>9</b>
<b>8.0</b>	<b>ELIGIBILITY FOR ADMISSION</b> .....	<b>11</b>
8.1	INTRODUCTION .....	11
8.2	ELIGIBILITY CRITERIA .....	11
8.3	SUITABILITY .....	15
8.4	GROUND FOR DENIAL .....	17
8.5	INFORMAL REVIEW .....	19
8.6	NON SMOKING POLICY .....	20
<b>9.0</b>	<b>MANAGING THE WAITING LIST</b> .....	<b>21</b>
9.1	OPENING AND CLOSING THE WAITING LIST .....	21
9.2	ORGANIZATION OF THE WAITING LIST .....	21
9.3	FAMILIES NEARING THE TOP OF THE WAITING LIST .....	21
9.4	PURGING THE WAITING LIST .....	22
9.5	REMOVAL OF APPLICANTS FROM THE WAITING LIST .....	22
9.6	MISSED APPOINTMENTS .....	23
9.7	NOTIFICATION OF NEGATIVE ACTIONS .....	23
<b>10.0</b>	<b>TENANT SELECTION AND ASSIGNMENT PLAN</b> .....	<b>24</b>
10.1	PREFERENCES .....	24
10.2	ASSIGNMENT OF BEDROOM SIZES .....	25
10.3	SELECTION FROM THE WAITING LIST .....	26
10.4	DECONCENTRATION POLICY .....	26
10.5	DECONCENTRATION INCENTIVES: N/A .....	26
10.6	OFFER OF A UNIT .....	26
10.7	REJECTION OF UNIT .....	27
10.8	ACCEPTANCE OF UNIT .....	27
<b>11.0</b>	<b>INCOME, EXCLUSIONS, AND DEDUCTIONS FROM INCOME</b> .....	<b>29</b>
11.1	INCOME .....	29
11.2	ANNUAL INCOME EXCLUSIONS .....	34
11.3	DEDUCTIONS FROM ANNUAL INCOME .....	37
11.4	RECEIPT OF A LETTER OR NOTICE FROM HUD CONCERNING INCOME .....	39
11.5	COOPERATING WITH WELFARE AGENCIES .....	39

<b>12.0</b>	<b>VERIFICATION.....</b>	<b>41</b>
12.1	ACCEPTABLE METHODS OF VERIFICATION .....	41
12.2	TYPES OF VERIFICATION .....	46
12.3	VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS .....	48
12.4	VERIFICATION OF SOCIAL SECURITY NUMBERS .....	48
12.5	TIMING OF VERIFICATION .....	49
12.6	FREQUENCY OF OBTAINING VERIFICATION .....	49
12.7	DISCREPANCIES IN VERIFIED INFORMATION .....	49
<b>13.0</b>	<b>DETERMINATION OF TOTAL TENANT PAYMENT AND TENANT RENT .....</b>	<b>51</b>
13.1	FAMILY CHOICE .....	51
13.2	THE INCOME METHOD .....	51
13.3	MINIMUM RENT .....	51
13.4	THE FLAT RENT .....	53
13.5	RENT FOR FAMILIES UNDER THE NONCITIZEN RULE .....	55
13.6	UTILITY ALLOWANCE .....	55
13.7	PAYING RENT .....	56
13.8	EARNED INCOME DISREGARD (EID) .....	56
<b>14.0</b>	<b>COMMUNITY SERVICE AND SELF-SUFFICIENCY REQUIREMENT .....</b>	<b>57</b>
14.1	GENERAL.....	57
14.2	EXEMPTIONS .....	58
14.3	NOTIFICATION OF THE REQUIREMENT .....	59
14.4	VOLUNTEER OPPORTUNITIES & ECONOMIC SELF-SUFFICIENCY .....	59
14.5	THE PROCESS .....	60
14.6	NOTIFICATION OF NON-COMPLIANCE WITH COMMUNITY SERVICE REQUIREMENT .....	61
14.7	OPPORTUNITY FOR CURE .....	61
14.8	PROHIBITION AGAINST REPLACEMENT OF AGENCY EMPLOYEES.....	61
<b>15.0</b>	<b>RECERTIFICATIONS.....</b>	<b>62</b>
15.1	GENERAL.....	62
15.2	MISSED APPOINTMENTS .....	63
15.3	FLAT RENTS.....	63
15.4	THE INCOME METHOD.....	64
15.5	EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL REEXAMINATIONS .....	65
15.6	INTERIM REEXAMINATIONS .....	65
15.7	SPECIAL REEXAMINATIONS .....	66
15.8	EFFECTIVE DATE OF RENT CHANGES DUE TO INTERIM OR SPECIAL REEXAMINATIONS .....	66
<b>16.0</b>	<b>UNIT TRANSFERS .....</b>	<b>67</b>
16.1	OBJECTIVES OF THE TRANSFER POLICY .....	67
16.2	CATEGORIES OF TRANSFERS.....	67
16.3	DOCUMENTATION .....	67
16.4	INCENTIVE TRANSFERS .....	67
16.5	PROCESSING TRANSFERS .....	68
16.6	COST OF THE FAMILY'S MOVE .....	69
16.7	TENANTS IN GOOD STANDING .....	69
16.8	TRANSFER REQUESTS.....	69
16.9	RIGHT OF THE PHA IN TRANSFER POLICY.....	69
<b>17.0</b>	<b>INSPECTIONS.....</b>	<b>70</b>
17.1	MOVE-IN INSPECTIONS.....	70
17.2	ANNUAL INSPECTIONS .....	70
17.3	PREVENTATIVE MAINTENANCE INSPECTIONS.....	70
17.4	SPECIAL INSPECTIONS.....	70

17.5	HOUSEKEEPING INSPECTIONS.....	70
17.6	NOTICE OF INSPECTION .....	70
17.7	EMERGENCY INSPECTIONS .....	70
17.8	PRE-MOVE-OUT INSPECTIONS .....	70
17.9	MOVE-OUT INSPECTIONS.....	71
<b>18.0</b>	<b>PET POLICY.....</b>	<b>72</b>
18.1	EXCLUSIONS .....	72
18.2	PETS IN PUBLIC HOUSING.....	72
18.3	APPROVAL .....	72
18.4	TYPES AND NUMBER OF PETS .....	73
18.5	INOCULATIONS.....	73
18.6	RESERVED.....	73
18.7	FINANCIAL OBLIGATION OF RESIDENTS.....	73
18.8	NUISANCE OR THREAT TO HEALTH OR SAFETY .....	73
18.9	DESIGNATION OF PET AREAS .....	74
18.10	MISCELLANEOUS RULES .....	74
18.11	VISITING PETS.....	75
18.12	REMOVAL OF PETS .....	75
<b>19.0</b>	<b>REPAYMENT AGREEMENTS.....</b>	<b>76</b>
<b>20.0</b>	<b>TERMINATION.....</b>	<b>77</b>
20.1	TERMINATION BY TENANT .....	77
20.2	TERMINATION BY THE HOUSING AUTHORITY .....	77
20.2A	VAWA PROTECTIONS.....	79
20.2B	VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING .....	80
20.2C	CONFIDENTIALITY .....	81
20.3	TERMINATIONS FOR CRIMINAL ACTIVITY .....	81
20.4	ABANDONMENT .....	82
20.5	RETURN OF SECURITY DEPOSIT .....	82
20.6	THE EIV'S DECEASED TENANTS REPORT .....	82
<b>21.0</b>	<b>SUPPORT FOR OUR ARMED FORCES.....</b>	<b>84</b>
<b>22.0</b>	<b>ANTI-FRAUD POLICY .....</b>	<b>85</b>
<b>23.0</b>	<b>GRIEVANCE PROCEDURE .....</b>	<b>86</b>
<b>24.0</b>	<b>PRIVACY.....</b>	<b>92</b>
	<b>GLOSSARY.....</b>	<b>93</b>
	<b>ACRONYMS.....</b>	<b>106</b>

# PORTSMOUTH HOUSING AUTHORITY

## ADMISSIONS AND CONTINUED OCCUPANCY POLICY

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This Admissions and Continued Occupancy Policy defines the Portsmouth Housing Authority's (PHA) policies for the operation of the Public Housing Program, incorporating Federal, State and local law. If there is any conflict between this policy and laws or regulations, the laws and regulations will prevail.

### 1.0 FAIR HOUSING

It is the policy of the PHA to fully comply with all Federal, State and local nondiscrimination laws; the Americans with Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity. The PHA shall affirmatively further fair housing in the administration of its Public Housing Program.

No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, marital status, disability, or sexual orientation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the PHA's programs.

No inquiries shall be made about a person's sexual orientation or gender identity. However, the Portsmouth Housing Authority may inquire about a person's sex in order to determine the number of bedrooms a household may be eligible for under the occupancy standards or to accurately complete HUD's 50058.

To further its commitment to full compliance with applicable Civil Rights laws, the PHA will provide Federal/State/local information to applicants/tenants of the Public Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the PHA office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

The PHA will assist any family that believes it has suffered illegal discrimination by providing the family with copies of the appropriate housing discrimination forms. The PHA will also assist the family in completing the forms if requested, and will provide it with the address of the nearest HUD office of Fair Housing and Equal Opportunity.

The Portsmouth Housing Authority will keep records of all complaints, investigations, notices and corrective actions for five years.

## **2.0 REASONABLE ACCOMMODATION**

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the PHA housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the PHA will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the PHA will ensure that all applicants/tenants are aware of the opportunity to request reasonable accommodations.

### **2.1 COMMUNICATION**

Anyone requesting an application will also receive information on how to request a Reasonable Accommodation.

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

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

### **2.2 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION**

- A. Is the requestor a person with disabilities? For this purpose the definition of person with disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

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

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, the PHA will obtain verification that the person requesting the accommodation is a person with a disability.

- B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the PHA will obtain documentation that the requested accommodation is needed due to the disability. The PHA will not inquire as to the nature of the disability.
- C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:
1. Would the accommodation constitute a fundamental alteration? The PHA's business is housing. If the request would alter the fundamental business that the PHA conducts, that would not be reasonable. For instance, the PHA would deny a request to have the PHA do grocery shopping for a person with disabilities.
  2. Would the requested accommodation create an undue hardship? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the PHA may request a meeting with the individual to investigate and consider equally effective alternatives.

- D. Generally the individual knows best what it is he or she needs; however, the PHA retains the right to be shown how the requested accommodation enables the individual to access or use the PHA's programs or services.

If more than one accommodation is equally effective in providing access to the PHA's programs and services, the PHA retains the right to select the most efficient or economic choice.

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

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

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

**PHA Policy**

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

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

*If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA 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.*

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services.

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

**PHA Policy**

*To meet the needs of persons with hearing impairments or with vision impairments, the PHA will, on request, provide interpreters. Additionally, a third party representative (a friend, relative or advocate, named by the applicant) will be permitted to receive, interpret and explain housing materials and be present at all meetings.*

### **3.0 SERVICES FOR LIMITED ENGLISH PROFICIENCY APPLICANTS AND RESIDENTS**

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

The PHA 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 is 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 residents, and parents and family members of applicants and residents.

In order to determine the level of access needed by LEP persons, the PHA 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 the PHA.

#### **ORAL INTERPRETATION**

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

#### **PHA Policy**

*The PHA is analyzing 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 PHA will hire bilingual staff to be available to act as interpreters and translators. Where feasible and possible, the PHA 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 any language services offered by the PHA. The interpreter may be a family member or friend provided the family member or friend is at least 18 years old.*

#### **WRITTEN TRANSLATION**

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

#### **PHA Policy**

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



*The PHA will provide written translations of vital documents for each eligible LEP language group which constitutes 25 percent or 1,000 persons, whichever is less, of the population of persons being served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally.*

*If there are fewer than 50 persons in a language group which reaches the 25 percent trigger, the PHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials.*

#### **IMPLEMENTATION PLAN**

PHA has implemented a Language Assistance Plan. This plan is updated as needed.

#### **PHA Policy**

*If it is determined that the PHA serves very few LEP persons, and the PHA has very limited resources, the PHA 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 PHA 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.*

#### **4.0 FAMILY OUTREACH**

The PHA will publicize the availability and nature of the Public Housing Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, and by other suitable means.

To reach people who cannot or do not read the newspapers, the PHA will distribute fact sheets to the broadcasting media and initiate personal contacts with members of the news media and community service personnel. The PHA will also try to utilize public service announcements.

The PHA will communicate the status of housing availability to other service providers in the community and inform them of housing eligibility factors and guidelines so they can make proper referrals for the Public Housing Program.

The objective of this effort is to develop a waiting list that is representative of the PHA's low-income community. A particular emphasis will be placed on attracting eligible individuals and families least likely to apply for public housing.

## **5.0 RIGHT TO PRIVACY**

All adult members of both applicant and tenant households are required to annually sign HUD Form 9886, Authorization for Release of Information and Privacy Act Notice. The Authorization for Release of Information and Privacy Act Notice states how family information will be released and includes the Federal Privacy Act Statement.

Any request for applicant or tenant information will not be released unless there is a signed release of information request from the applicant or tenant.

## **6.0 REQUIRED POSTINGS**

In each of its offices, the PHA will post, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

- A. Statement of Policies and Procedures governing Admission and Continued Occupancy
- B. Notice of the status of the waiting list (opened or closed)
- C. A listing of all the developments by name, address, number of units, units designed with special accommodations, address of all project offices, office hours, telephone numbers, TDD numbers, and Resident Facilities and operation hours
- D. Income Limits for Admission
- E. Excess Utility Charges
- F. Utility Allowance Schedule
- G. Current Schedule of Routine Maintenance Charges
- H. Dwelling Lease
- I. Grievance Procedure
- J. Fair Housing Poster
- K. Equal Opportunity in Employment Poster
- L. Any current PHA Notices
- M. Flat Rents
- N. The Agency's PHAS score and designation.
- O. Screening and Eviction for Drug Abuse and Other Criminal Activity Policy

## 7.0 TAKING APPLICATIONS

Families wishing to apply for the Public Housing Program will be required to complete an application for housing assistance. Applications will be accepted during regular business hours at:

*The PHA Central Office, 245 Middle Street, Portsmouth, New Hampshire, 03801: Business Hours: Monday 8:30 a.m. to 6:00 p.m., Tuesday through Thursday, 8:30 a.m. to 4:30 p.m., Friday, 8:30 a.m. to 12:00 p.m.*

Applications are taken to compile a waiting list. Due to the demand for housing in the PHA jurisdiction, the PHA may take applications on an open enrollment basis, depending on the length of the waiting list.

Completed applications will be accepted for all applicants and the PHA will verify the information.

Applications may be made in person on *Monday 8:30 a.m. to 6:00 p.m., Tuesday through Thursday, 8:30 a.m. to 4:30 p.m., Friday, 8:30 a.m. to 12:00 p.m.* Applications will be mailed to interested families upon request.

The completed application will be date and time stamped upon its return to the PHA.

Persons with disabilities who require a reasonable accommodation in completing an application may call the PHA to make special arrangements. A Telecommunication Device for the Deaf (TDD) is available for the deaf. The TDD telephone number is *(800-545-1833 Ext. 825)*.

The application process will involve two phases. The first phase is the initial application for housing assistance or the pre-application. The pre-application requires the family to provide limited basic information (i.e. family composition, income, etc.) establishing any preferences to which they may be entitled. This first phase results in an apparently eligible family's placement on the waiting list.

Upon receipt of the family's pre-application, the PHA will make a preliminary determination of eligibility. **Within 10 business days of receipt of the complete application**, the PHA will notify an apparently eligible family in writing of the date and time of placement on the waiting list, and the approximate wait before housing may be offered. If the PHA determines the family to be ineligible, the notice will state the reasons therefore and will offer the family the opportunity of an informal review of the determination. **Applications must be complete in order to be accepted by the PHA for processing. If an application is incomplete, the PHA will notify the family of the additional information required.**

The applicant may at any time report changes in their applicant status in writing including changes in family composition, income, or preference factors. The PHA will annotate the applicant's file and will update its place on the waiting list.

The second phase is the final determination of eligibility, referred to as the full application. The full application takes place when the family nears the top of the waiting list. The PHA will ensure that verification of all preferences, eligibility, suitability and selection factors are current (less than 90 calendar days old) in order to determine the family's final eligibility for admission into the Public Housing Program.

Applicants will be required to complete the information on form HUD-92006, Supplement to Application for Federally Assisted Housing. The form gives applicants the option to identify an individual or organization that the Housing Authority may contact and the reason(s) the individual or organization may be contacted. The applicants, if they choose to provide the additional contact information, must sign and date the form.

If the applicant chooses to have more than one contact person or organization, the applicant must make clear to the Housing Authority the reason each person or organization may be contacted. The Housing Authority will allow the applicant to complete a form HUD-92006 for each contact and indicating the reason the Housing Authority may contact the individual or organization. For example, the applicant may

choose to have a relative as a contact for emergency purposes and an advocacy organization for assistance for tenancy purposes.

Those applicants who choose not to provide the contact information should check the box indicating that they “choose not to provide the contact information” and sign and date the form.

**PHA Policy**

*At the PHA’s discretion, verifications may be extended for an additional 30 days with a telephone update. A record of the update, including the name and title of the individual contacted, must be placed in the applicant’s file. Verified information not subject to change, such as a person’s date and place of birth, need not be reverified.*

## 8.0 ELIGIBILITY FOR ADMISSION

### 8.1 INTRODUCTION

There are five eligibility requirements for admission to public housing: qualifies as a family, has an income within the income limits, meets citizenship/eligible immigrant criteria, provides documentation of Social Security numbers, and signs consent authorization documents. In addition to the eligibility criteria, families must also meet the PHA screening criteria in order to be admitted to public housing.

### 8.2 ELIGIBILITY CRITERIA

- A. Family Status – Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

#### **PHA Policy**

*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. To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, the PHA will require applicants to demonstrate that the individuals have lived together previously, and certify that each individual's income and other resources will be available to meet the needs of the family. Applicants in this category will have to establish that they have had a stable family relationship for two years prior to the application.*

1. **A family with or without children.** Such a family is defined as a group of people related by blood, marriage, adoption or affinity (regardless of actual or perceived sexual orientation, gender identity, or marital status) that live together in a stable family relationship.
  - a. Children temporarily absent from the home due to placement in foster care are considered family members.
  - b. Unborn children and children in the process of being adopted are considered family members for the purpose of determining bedroom size but are not considered family members for determining income limit.
2. **An elderly family**, which is:
  - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age;
  - b. Two or more persons who are at least 62 years of age living together; or
  - c. One or more persons who are at least 62 years of age living with one or more live-in aides.
3. **A near-elderly family**, which is:
  - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62;
  - b. Two or more persons, who are at least 50 years of age but below the age of 62, living together; or
  - c. One or more persons, who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

4. A **disabled family**, which is:
  - a. A family whose head (including co-head), spouse, or sole member is a person with disabilities;
  - b. Two or more persons with disabilities living together; or
  - c. One or more persons with disabilities living with one or more live-in aides.
  - d. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.
5. A **displaced family**, which is a family in which each member, or whose sole member, has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
6. A **remaining member of a tenant family**. If the remaining member of a tenant family is a minor or minors, it will be necessary for an adult to temporarily move into a unit to serve as a guardian for children residing in the unit. The income received by the temporary guardian will be counted in determining family income. Although typically a criminal background check is required before anyone can move into a public housing unit, this requirement will be waived for a guardian in this situation. Instead, the background check will occur after the person moves in. If the results of the check dictate that the person is ineligible for public housing, the family shall be given a reasonable time to find a replacement guardian or vacate the property.

The PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the family in a divorce or separation decree, the PHA is bound by the court's determination of which family members continue to receive assistance.

**PHA 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 receiving assistance, only one of the new families will continue to be assisted. The remaining family member who retains the minor children will be the priority. The other family may reapply for public housing assistance.*

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

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



The PHA 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 the 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(b)]. 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.

### **PHA 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, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.*

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

*The PHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:*

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

*The person commits 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 housing choice voucher or public housing assistance under the 1937 Act.*

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

### **B. Income Eligibility**

1. To be eligible for admission to developments or scattered-site units, the family's annual income must be within the low-income limit set by HUD. This means the family income cannot exceed 80 percent of the median income for the area. If the property has Low Income Housing Tax Credits on it, a lower income cap will apply.
2. Income limits apply only at admission and are not applicable for continued occupancy.
3. A family may not be admitted to the public housing program from another assisted housing program (e.g., tenant-based Section 8) or from a public housing program operated by another housing authority without meeting the income requirements of the PHA.
4. If the PHA acquires a property for federal public housing purposes, the families living there must have incomes within the low-income limit in order to be eligible to remain as public housing residents.
5. Income limit restrictions do not apply to families transferring within PHA's Public Housing Program.
6. The PHA may allow police officers who would not otherwise be eligible for occupancy

in public housing to reside in a public housing dwelling unit. Such occupancy must be needed to increase security for public housing residents. Their rent shall at least equal the cost of operating the public housing unit.

7. If there are no eligible families on the waiting list and the PHA has published a 30 calendar day notice of available units in at least one newspaper of general circulation, families above the applicable income limit may be housed. They must vacate the unit if an eligible family applies.

C. Citizenship/Eligibility Status

1. To be eligible for public housing each member of the family must be a citizen, national, or a non-citizen who has eligible immigration status under one of the categories set forth in Section 214 of the Housing and Community Development Act of 1980 (see 42 U.S.C. 1436a(a)) or a citizen of the Republic of Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. However, people in the last category are not entitled to housing assistance in preference to any United States citizen or national resident within Guam.
2. Family eligibility for assistance.
  - a. A family shall not be eligible for assistance unless at least one member of the family residing in the unit is determined to have eligible status, with the exception noted below.
  - b. Despite the ineligibility of one or more family members, a mixed family may be eligible for one of three types of assistance (See Section 13.6 for calculating rents under the non-citizen rule).
  - c. A family without any eligible members and receiving assistance on June 19, 1995, may be eligible for temporary deferral of termination of assistance.

All adults must be able to sign the lease. If the State of New Hampshire forbids individuals with ineligible immigration status from executing contracts (i.e., leases or other legal binding documents), then they are ineligible for this program.

D. Social Security Number Documentation

Prior to admission, every family member must provide the Portsmouth Housing Authority with a complete and accurate Social Security Number unless they do not contend eligible immigration status. New family members must provide this verification prior to being added to the lease. If the new family member became a member of the household within six months prior to the date of admission and is under the age of six and has not been assigned a Social Security Number, the family shall have ninety (90) calendar days after starting to receive the assistance to provide a complete and accurate Social Security Number. The Housing Authority shall grant one ninety (90) day extension for newly-added family members under the age of six if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and was outside the control of the person.

If a person is already a program participant and has not disclosed his or her Social Security Number, it must be disclosed at the next re-examination or re-certification.

Participants aged 62 or older as of January 31, 2010 whose initial eligibility determination was begun before January 31, 2010 are exempt from the required disclosure of their Social Security Number. This exemption continues even if the individual moves to a new assisted unit.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, the Housing Authority will accept an original document issued by a federal or state government agency, which contains the name of the individual and the Social Security Number of the individual, along with other identifying information of the individual or such other evidence of the Social Security Number as HUD may prescribe in administrative instructions.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided. If the Social Security Number of each household member cannot be provided to the Housing Authority within **90** days of it being requested, the family shall retain its place on the waiting list. During this **90** days, if all household members have not disclosed their SSN at the time a unit becomes available, the Housing Authority must offer the available unit to the next eligible applicant family on the waiting list.

If an individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated. The Housing Authority shall grant one ninety (90) day extension from termination if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and there is a reasonable likelihood that the person will be able to disclose a Social Security Number by the deadline.

#### E. Signing Consent Forms

1. In order to be eligible, each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.
2. The consent form must contain, at a minimum, the following:
  - a. A provision authorizing HUD or the PHA to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy;
  - b. A provision authorizing HUD or the PHA to verify with previous or current employers or other sources of income information pertinent to the family's eligibility for or level of assistance;
  - c. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits;
  - d. A statement allowing the PHA permission to access the applicant's criminal record with any and all police and/or law enforcement agencies, and
  - e. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

### 8.3 SUITABILITY

- A. Applicant families will be evaluated to determine whether, based on their recent behavior, such behavior could reasonably be expected to result in compliance with the public housing lease. The PHA will look at past conduct as an indicator of future conduct. Emphasis will be placed on whether a family's admission could reasonably be expected to have a detrimental effect on the development environment, other tenants, PHA employees, or other people residing in the immediate vicinity of the property. Otherwise eligible families will be denied admission if they fail to meet the suitability criteria.

B. The PHA will consider objective and reasonable aspects of the family's background, including the following:

1. History of meeting financial obligations, especially rent and any utility payments;
2. Ability to maintain (or with assistance would have the ability to maintain) their housing in a decent and safe condition based on living or housekeeping habits and whether such habits could adversely affect the health, safety, or welfare of other tenants;
3. History of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well being of other tenants or staff or cause damage to the property;
4. History of disturbing neighbors or destruction of property;
5. Having committed fraud in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from; and
6. History of abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment by others.

In deciding whether to exercise their discretion to admit an individual or household that has engaged in criminal activity, the Portsmouth Housing Authority will consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to the seriousness of the offending action.

C. The PHA will ask applicants to provide information demonstrating their ability to comply with the essential elements of the lease. The PHA will verify the information provided. Such verification may include but may not be limited to the following:

1. A credit check of the head, spouse, co-head, and any other adult family members;
2. A rental history check of all adult family members;
3. A criminal background check on all adult household members, including live-in aides at no cost to the applicant. This check will be made through State or local law enforcement or court records in those cases where the household member has lived in the local jurisdiction for the last three years. Where the individual has lived outside the local area, the PHA may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC). This criminal background check will proceed after each adult household member has signed a consent form.

The information received as a result of the criminal background check shall be used solely for screening, lease enforcement and eviction purposes. The information derived from the criminal background check shall be shared only with employees of the PHA who have a job-related need to have access to the information. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished and the period for filing a challenge to the PHA's action has expired without a challenge or final disposition of any litigation has occurred;

4. A home visit. The home visit provides the opportunity for the family to demonstrate its

ability to maintain its home in a safe and sanitary manner. This inspection considers cleanliness and care of rooms, appliances, and appurtenances. The inspection may also consider any evidence of criminal activity; and

5. A check of the State's lifetime sex offender registration program for each adult household member, including live-in aides. No household with an individual registered under a State sex offender registration will be admitted to public housing. The PHA will check with New Hampshire's registry and if the applicant has resided in another State(s), with that State(s)'s list.

The Portsmouth Housing Authority will also utilize the US Department of Justice's Dru Sjodin National Sex Offender website as an additional resource. The Dru Sjodin National Sex Offender Database is an online, searchable database, hosted by the Department of Justice, which combines the data from individual state sex offender registries.

If an applicant is about to be denied housing based on either the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the denial or eviction occurs. Applicants that are denied housing will be given a notice on their rights and responsibilities under the Violence Against Women Act (VAWA). A copy of the HUD 50066 form (Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) shall also be provided with the notice.

#### **8.4 GROUNDS FOR DENIAL**

In the event of an inconsistency between the Screening and Eviction for Drug Abuse and other Criminal Activity (SEDACA) Policy and other provisions of this ACOP, the more stringent will apply.

The PHA is not required or obligated to assist families where applicants or members of the applicant's household:

- A. Do not meet any one or more of the eligibility criteria;
- B. Do not supply information or documentation required by the application process;
- C. Have failed to respond to a written request for information or a request to declare their continued interest in the program;
- D. Have a history of not meeting financial obligations, especially rent;
- E. Do not have the ability to maintain (with assistance) their housing in a decent and safe condition where such habits could adversely affect the health, safety, or welfare of other tenants;
- F. Have a history of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well being of other tenants or staff or cause damage to the property;
- G. For purposes of this Policy, if any member of the applicant family has verifiable criminal activity at least 2 times within the prior one-year period, s/he will be determined to have engaged in criminal activity, drug related criminal activity or violent criminal activity.

Being a victim of domestic violence, dating violence, sexual assault, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission. The Authority will require verification in all cases where an applicant claims protection against an action proposed to be taken by the Authority involving such individual. Types of acceptable verifications are outlined in Section 20.2B of the

ACOP, and must be submitted within 14 business days after receipt of the Housing Authority's written request for verification.

- H. Have a history of disturbing neighbors or destruction of property;
- I. Currently owes rent or other amounts to any housing authority in connection with the public housing or Section 8 programs;
- J. Have committed fraud, bribery or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;
- K. Were evicted from federally assisted housing within the past three years because of drug-related criminal activity. The three-year limit is based on the date of such eviction, not the date the crime was committed.

However, the PHA may admit the household if the PHA determines:

1. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
  2. The circumstances leading to the eviction no longer exist (for example, the criminal household member is imprisoned or has died).
- L. Are currently engaging in the illegal use of a controlled substance. For purposes of this section, a member is "currently engaged in" the criminal activity if the person has engaged in this behavior recently enough to justify a reasonable belief that the behavior is current. **Recently means within the previous 12 months.**
  - M. The PHA determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
  - N. The PHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

With respect to criminal activity described in paragraphs K, L, M, and N of this Section, PHA may require an applicant to exclude a household member in order to be admitted to public housing where that household member has participated in or been culpable for actions described in paragraphs K, L, M, and N that warrants denial.

- O. Have engaged in or threatened abusive or violent behavior towards any PHA staff member or resident;
- P. Fugitive felons, parole violators, and persons 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;
- Q. **Denied for Life:** If any family member has been convicted of manufacturing or producing methamphetamine (speed) in a public housing development, in a Section 8 assisted property, or on the premises of other federally assisted housing;
- R. **Denied for Life:** Has a lifetime registration requirement under a State sex offender registration program.

In determining whether to deny admission for illegal drug use by a household member who is no longer engaging in such abuse, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member:

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

For this purpose, PHA 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.

For denying an admission based on any criminal activity, an arrest record, alone, will not serve as sufficient evidence of criminal activity that can support an adverse admission decision. Before the Portsmouth Housing Authority denies admission to an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. The Portsmouth Housing Authority can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

Before the PHA denies admission to the PHA's public housing program on the basis of a criminal record, the PHA must notify the household of the proposed action and must provide the person with the criminal record (i.e., a child) and the applicant (head of household) with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record. The applicant will have *ten (10)* calendar days to dispute the accuracy and relevance of the record in writing. If the PHA does not receive the dispute within the allotted time, the applicant will be denied.

## 8.5 INFORMAL REVIEW

- A. If the PHA determines that an applicant does not meet the criteria for receiving public housing assistance, the PHA will provide the applicant with written notice of the determination **within 10 business days of receipt of the completed application**. The notice must contain a brief statement of the reason(s) for the decision and state that the applicant may request in writing an informal review of the decision within 10 business days of the denial. The PHA will describe how to obtain the informal review.

The informal review may be conducted by any person designated by the PHA, other than a person who made or approved the decision under review or subordinate of this person. The applicant must be given the opportunity to present written or oral objections to the PHA's decision. The PHA must notify the applicant of the final decision within **10** business days after the informal review, including a brief statement of the reasons for the final decision.

- B. The applicant may request that the PHA provide for an Informal Hearing after the family has notification of an INS decision on their citizenship status on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant within 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or within 30 calendar days of receipt of the INS appeal decision.

For the applicants, the Informal Hearing Process above will be utilized with the exception that the applicant will have up to 30 calendar days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision.

### **PHA Policy**

*In rendering a decision, the PHA 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 assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.*

*The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.*

*If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.*

*The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any.*

## **8.6 NON SMOKING POLICY**

The Portsmouth Housing Authority and all of its public housing developments are smoke-free facilities as of July 1, 2009. Reference PHA Smoking Policy for further guidance. **On July 1, 2009 all current residents of public housing are required to smoke outside of the properties at least twenty (20') feet from any public housing structure.** Also, any new applicants will be informed at the time of application that the Portsmouth Housing Authority are smoke free housing facilities and no smoking is allowed in any property including individual housing units.



## **9.0 MANAGING THE WAITING LIST**

### **9.1 OPENING AND CLOSING THE WAITING LIST**

#### **Closing the Waiting List**

A PHA is permitted to close the waiting list if it has an adequate pool of families to fill its available units. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular needs.

#### **PHA Policy**

*The PHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 12 months for the most current applicants. Where the PHA has particular needs for a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others.*

*The PHA will give public notice of the closing 10 business days prior to closing the waiting list by publishing the relevant information in suitable media outlets including, but not limited to:*

**The Portsmouth Herald, the Fosters Daily Democrat, and the Manchester Union Leader.**

#### **Reopening the Waiting List**

If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

#### **PHA Policy**

*The PHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.*

*The PHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:*

**The Portsmouth Herald, the Fosters Daily Democrat, and the Manchester Union Leader.**

### **9.2 ORGANIZATION OF THE WAITING LIST**

The waiting list will be maintained in accordance with the following guidelines:

- A. The application will be a permanent file;
- B. All applications will be maintained in order of bedroom size, preference(s), and then in order of date and time of application; and
- C. Any contact between the PHA and the applicant will be documented in the applicant file.

### **9.3 FAMILIES NEARING THE TOP OF THE WAITING LIST**

When a family appears to be nearing the top of the waiting list, the family will be invited to an interview and the verification process will begin. It is at this point in time that the family's waiting list preference will be verified. If the family no longer qualifies to be near the top of the list, the family's name will be returned

to the appropriate spot on the waiting list. The PHA must notify the family in writing of this determination and give the family the opportunity for an informal review.

Once the preference has been verified, the family will complete a full application, present Social Security number information, citizenship/eligible immigrant information, and sign the Consent for Release of Information forms.

Applicants will also be given the opportunity to update their HUD Form 92006 if applicable and if they desire.

#### **9.4 PURGING THE WAITING LIST**

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

##### **Purging the Waiting List**

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

##### **PHA Policy**

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

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

*The family's response must be in writing and may be delivered in person, by mail, or by email. Responses should be postmarked or received by the PHA not later than 15 business days from the date of the PHA letter.*

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

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

*If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent.*

*If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it determines the lack of response was due to PHA error, or to circumstances beyond the family's control.*

#### **9.5 REMOVAL OF APPLICANTS FROM THE WAITING LIST**

The PHA will not remove an applicant's name from the waiting list unless:

- A. The applicant requests in writing that the name be removed;
- B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program;

- C. The applicant does not meet either the eligibility or suitability criteria for the program; or
- D. The applicant is housed in any of PHA's programs other than the Housing Choice Voucher Program.

### **PHA Policy**

*If at any time an applicant family is on the waiting list, the PHA determines that the family is not eligible for assistance, the family will be removed from the waiting list.*

*If a family is removed from the waiting list because the PHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review of the PHA's decision.*

## **9.6 MISSED APPOINTMENTS**

All applicants who fail to keep a scheduled appointment with the PHA will be sent a notice of termination of the process for eligibility.

The PHA will allow the family to reschedule for good cause. Generally, no more than one opportunity will be given to reschedule without good cause, and no more than two opportunities will be given for good cause. When good cause exists for missing an appointment, the PHA will work closely with the family to find a more suitable time.

## **9.7 NOTIFICATION OF NEGATIVE ACTIONS**

Any applicant, other than one who requests removal or who has been housed, whose name is being removed from the waiting list will be notified by the PHA, in writing, that they have ten (10) business days from the date of the written correspondence to present mitigating circumstances or request in writing an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the timeframe specified. The PHA system of removing applicant names from the waiting list will not violate the rights of persons with disabilities. If an applicant claims that their failure to respond to a request for information or updates was caused by a disability, the PHA will verify that there is in fact a disability and the disability caused the failure to respond, and will provide a reasonable accommodation. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

## 10.0 TENANT SELECTION AND ASSIGNMENT PLAN

### 10.1 PREFERENCES

The PHA will select families based on the following preferences within each bedroom size category based on our local housing needs and priorities:

1. **Priority 1: Residency in Portsmouth that is verified by the following methods: Rent Receipt, Copy of Lease, Utility Bill, Employer/Agency Record, School Record, Driver's License, Voter Registration Record, Credit Report, Statement from Landlord: At least three of the foregoing are required. Employed in the City of Portsmouth: Notarized Employment Verification Statement signed by employer.**
2. **Priority 2: Veteran's that is verified by United States Government Documents (ex. DD214-Discharge Paperwork with Honorable Discharge). Preference is extended equally to a spouse of a Veteran.**
3. **Priority 3: Elderly or Disabled defined as a person who is disabled or 62 years old or older. This preference must be verified by the disability assistance provider and/or birth certificate.**

	<i>Preference</i>	<i>Weight</i>
<i>1</i>	<i>Residency</i>	<i>4 pts</i>
<i>2</i>	<i>Veteran's (Preference is extended equally to a spouse of a Veteran)</i>	<i>2 pts</i>
<i>3</i>	<i>Elderly and/or Disabled</i>	<i>1 pts</i>
	<i>Total Preference Points Possible</i>	<i>7 pts</i>

The date and time of application will be noted and utilized to determine the sequence within the above-prescribed preferences.

Notwithstanding the above, families who are elderly or disabled, will be offered housing before other single persons.

**Buildings Designed for the Elderly and Disabled (Mixed Population Developments):** Preference will be given to elderly and disabled families. If there are no elderly or disabled families on the list, preference will then be given to near-elderly families. If there are no near-elderly families on the waiting list, units will be offered to families who qualify for the appropriate bedroom size using these priorities. All such families will be selected from the waiting list using the preferences as outlined above.

**Buildings Designated as Elderly Only Housing:** None at the present time.

**Buildings Designated for Disabled Only Housing:** None at the present time.

**Accessible Units:** Accessible units will be first offered to families who may benefit from the accessible features who reside in the development that has the vacancy. If there are no families needing the accessible unit residing in that development, it shall then be offered to families residing in other developments who may benefit from the accessible unit. If there are no families needing the accessible unit residing in the other developments, it shall then be offered to applicants on the waiting list who may benefit from the accessible features.

Applicants for these units will be selected utilizing the same preference system as outlined above. If there are no applicants who would benefit from the accessible features, the units will be offered to other applicants in the order that their names come to the top of the waiting list. Such applicants, however, **will be required** to sign a lease rider stating they will accept a transfer (at the PHA's expense) if, at a future

time, a family requiring an accessible feature applies or requires a transfer from a non-accessible unit. Any family required to transfer will be given a 30-calendar day notice.

## 10.2 ASSIGNMENT OF BEDROOM SIZES

The following guidelines will determine each family's unit size without overcrowding or over-housing:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

These standards are based on the assumption that each bedroom will accommodate no more than two (2) persons. Zero bedroom units will only be assigned to one-person families. Two adults will share a bedroom unless related by blood.

In determining bedroom size, the PHA will include the presence of children to be born to a pregnant woman, children who are in the process of being adopted, children whose custody is being obtained, children currently under a 50% or more joint custody decree, children who are temporarily away at school, or children who are temporarily in foster care.

In addition, the following considerations may be taken in determining bedroom size:

- A. Children of the same sex will share a bedroom.
- B. Children of the opposite sex, both under the age of 3, will share a bedroom.
- C. Adults and children will not be required to share a bedroom.
- D. Foster adults and/or foster children will not be required to share a bedroom with family members.
- E. Live-in aides will get a separate bedroom.

Exceptions to normal bedroom size standards include the following:

- A. Units smaller than assigned through the above guidelines. A family may request a smaller unit size than the guidelines allow. The PHA will allow the smaller size unit so long as generally no more than two (2) people per bedroom are assigned. In such situations, the family will sign a certification stating they understand they will be ineligible for a larger size unit for **3 years** or until the family size changes, whichever may occur first.
- B. Units larger than assigned through the above guidelines. A family may request a larger unit size than the guidelines allow. The PHA will allow the larger size unit if the family provides a verified medical or disability related need that the family be housed in a larger unit.

- C. If there are no families on the waiting list for a larger size, smaller families may be housed if they sign a release form stating they will transfer (at the family's own expense) to the appropriate size unit when an eligible family needing the larger unit applies. The family transferring will be given a 30-calendar day notice before being required to move.
- D. Larger units may be offered in order to improve the marketing of a development suffering a high vacancy rate.
- E. In no event will a single person who is not an elderly person or a displaced person, or a person with disabilities be provided with a unit that is larger than one-bedroom.

### **10.3 SELECTION FROM THE WAITING LIST**

The Portsmouth Housing Authority shall follow the statutory requirement that at least 40% of newly-admitted families in any fiscal year are families whose annual income is the higher of either 30% of the Area Median Income or the Federal poverty level (defined at <http://www.huduser.org/portal/datasets/il/ill4/index.html> as extremely low-income). To ensure this requirement is met, the Housing Authority shall monitor the incomes of both newly-admitted families and families on the waiting list on a quarterly basis. If it appears that the requirement to house extremely low-income families will not be met, the Housing Authority will skip higher-income families on the waiting list to reach extremely low-income families.

If admissions of extremely low-income families to the PHA's voucher program during a fiscal year exceed the 75% minimum targeting requirement for the PHA's voucher program, such excess shall be credited (subject to the limitations in this paragraph) against the PHA's basic targeting requirement for the same fiscal year.

The fiscal year credit for voucher program admissions that exceeds the minimum voucher program targeting requirement shall not exceed the lower of:

- A. Ten % of public housing waiting list admissions during the PHA fiscal year;
- B. Ten % of waiting list admissions to the PHA's Housing Choice Voucher Program during the PHA fiscal year; or
- C. The number of qualifying low-income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 % or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

If there are not enough extremely low-income families on the waiting list, PHA will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement.

### **10.4 DECONCENTRATION POLICY**

The PHA is not subject to the deconcentration requirements according to 24 CFR 903. Nevertheless, the PHA will affirmatively market its housing to all eligible income groups.

### **10.5 DECONCENTRATION INCENTIVES: N/A**

### **10.6 OFFER OF A UNIT**

#### **PHA Policy**

*Applicants must accept a unit or refuse a unit offer at the time the unit is shown and offered to the applicants.*

When the PHA learns that a unit will become available, it will contact the first family on the waiting list who has the highest priority for this type of unit and/or the income targeting goal.

*The PHA will contact the family first by telephone or e-mail to make the unit offer. If the family cannot be reached by telephone or e-mail, the family will be notified of a unit offer via first class mail. The family will be given five (5) business days from the date the family was contacted by telephone or from the date the letter was mailed to contact the PHA regarding the offer.*

The family will be offered the opportunity to view the unit. The family will have **twenty-four hours to view and accept or reject the unit**. This verbal offer and the family's decision must be documented in the tenant file. If the family rejects the offer of the unit, the PHA will send the family a letter documenting the offer and the rejection.

#### **10.7 REJECTION OF UNIT**

If the family rejects the unit without good cause, the family will forfeit its application's date and time. The family will keep its preferences, but the date and time of application will be changed to the date and time the unit was rejected.

The family will be offered the right to an informal review of the decision to alter their application status.

If the family rejects with good cause any unit offered, it will not lose its place on the waiting list. Good cause includes, among other things, reasons related to health, proximity to work, school, and childcare (for those working or going to school).

#### **10.8 ACCEPTANCE OF UNIT**

The family will be required to sign a lease that will become effective no later than one (1) business days after the date of acceptance or the business day after the day the unit becomes available, whichever is later.

The applicant will be provided a copy of the lease, the Grievance Procedure, utility allowances, utility charges, the current schedule of routine maintenance charges, and a request for reasonable accommodation form. These documents will be explained in detail. The adult family members will sign a certification that they have received these documents and that they have reviewed them with Housing Authority personnel. The certification will be filed in the tenant's file. The orientation shall include the resident's rights and responsibilities under the Violence Against Women Act.

The signing of the lease and the review of financial information are to be privately handled. The head of household and all adult family members will be required to execute the lease prior to admission. One executed copy of the lease will be furnished to the head of household and the PHA will retain the original executed lease in the tenant's file. A copy of the Grievance Procedure will be attached to the resident's copy of the lease.

**(The family who accepts a public housing unit will be allowed to remain on the Section 8 Waiting List, if they so choose, however they will not be allowed to move from the unit for a period of twelve (12) months to accept a Section 8 Voucher. They can be transferred from one public housing unit to another after a request is made for good cause and approved by the Executive Director.)**

The family will pay a security deposit at the time of lease signing. The security deposit will be equal to:

A. ***The Total Tenant Payment or \$50, whichever is greater.***

In exceptional situations, the PHA reserves the right to allow a new resident to pay its security deposit in up to three (3) payments. One third shall be paid in advance, one third with the second rent payment, and one third with the third rent payment. This shall be at the sole discretion of the PHA.

In the case of a move within public housing, the security deposit for the first unit will be transferred to the second unit. Additionally, if the security deposit for the second unit is greater than that for the first, the difference will be collected from the family. Conversely, if the security deposit is less, the difference will be refunded to the family.

In the event there are costs attributable to the family for bringing the first unit into condition for re-renting, the family shall be billed for these charges.



## 11.0 INCOME, EXCLUSIONS, AND DEDUCTIONS FROM INCOME

To determine annual income, the PHA adds the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, the PHA subtracts all allowable deductions (allowances) to determine the Total Tenant Payment.

### 11.1 INCOME

Annual income means all amounts, monetary or not, that:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- C. Are not specifically excluded from annual income.

If it is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a re-determination at the end of the shorter period.

Annual income includes, but is not limited to, the amounts specified in the federal regulations currently found in 24 CFR 5.609:

- A. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- B. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not 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 is included in income, except to the extent the withdrawal is a reimbursement of cash or assets invested in the operation by the family.

#### **PHA Policy**

*To determine business expenses that may be deducted from gross income, the PHA 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.*

#### **PHA Policy**

*Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate a 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.*

#### **PHA 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 PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.*

- C. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not 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 an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family.

**PHA 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.*

Where the family has net family assets in excess of \$5,000, annual income includes 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. Income that could have been derived from assets worth more than \$1000 that were disposed of for less than fair market value within the past two years will be counted as income.

**PHA Policy**

*Anytime 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 PHA to show why the asset income determination does not represent the family's anticipated asset income.*

**PHA Policy**

*The PHA 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 re-certifications, 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.*

**PHA Policy**

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

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

**PHA 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.*

**PHA Policy**

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

#### **PHA Policy**

In determining the value of a **checking account**, the PHA will use the average monthly balance for the last six months.

In determining the value of a savings account, the PHA will use the current balance.

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

#### **PHA Policy**

In determining the market value of an **investment account**, the PHA will use the value of the account on the most recent investment report.

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

#### **PHA 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 the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

#### **PHA Policy**

In determining the value of **personal property** held as an investment, the PHA will use the family's estimate of the value. However, the PHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

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

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

- D. 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. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)

#### **PHA Policy**

When a **delayed-start payment** is received and reported during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family share and PHA subsidy 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 PHA.

- E. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
- F. Welfare assistance
  - 1. Welfare assistance payments
    - a. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
      - i. Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
      - ii. Are not otherwise excluded under paragraph Section 11.2 of this Policy.
    - b. 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 consists of:
      - i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
      - ii. 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 requirement is the amount resulting from one application of the percentage.
  - 2. Imputed welfare income
    - a. A family's annual income includes the amount of imputed welfare income (because of specified welfare benefits reductions resulting from either welfare fraud or the failure to comply with economic self-sufficiency requirements, as specified in notice to the PHA by the welfare agency) plus the total amount of other annual income.
    - b. 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.
    - c. A family's annual income includes imputed welfare income in family annual income, as determined at an 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).
    - d. 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 welfare income, the imputed welfare income is reduced to zero.

- e. The PHA will not include imputed welfare income in annual income if the family was not an assisted resident at the time of the sanction.
- f. If a resident is not satisfied that the PHA has 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, then the PHA shall give the resident written notice of such denial, with a brief explanation of the basis for the PHA's determination of the amount of imputed welfare income. The PHA's notice shall also state that if the resident does not agree with the determination, the resident may grieve the decision in accordance with PHA's Grievance Procedure. The resident is not required to pay an escrow deposit for the portion of the resident's rent attributable to the imputed welfare income in order to obtain a grievance hearing.

3. Relations with welfare agencies

- a. The PHA will ask welfare agencies to inform it 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.
- b. 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 housing authority. 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.
- c. 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 rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

- G. Periodic and determinable allowances, such as alimony, child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.

**PHA Policy**

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

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

### **PHA 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.*

*Non-monetary contributions will be valued at the cost of purchasing the items, as determined by the PHA. For contributions that may vary from month to month (e.g., utility payments), the PHA will include an average amount based upon past history.*

- H. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)

### **11.2 ANNUAL INCOME EXCLUSIONS**

Annual income does not include the following amounts specified in the federal regulations currently found in 24 CFR 5.609:

- A. Income from employment of children (including foster children) under the age of 18 years;
- B. 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) or payments made under Kin-GAP or similar guardianship care programs for children leaving the juvenile court system;
- C. 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;
- D. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. The full amount of student financial assistance paid directly to the student or to the educational institution;
- G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- H. The amounts received from the following programs:
  - 1. Amounts received under training programs funded by HUD;
  - 2. 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);
  - 3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program;
  - 4. 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 Housing Authority 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 governing board. No resident may receive more than one such stipend during the same period of time;

5. 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;
6. Temporary, nonrecurring or sporadic income (including gifts);
7. 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;
8. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
9. Adoption assistance payments in excess of \$480 per adopted child;
10. The incremental earnings due to employment during a cumulative 12-month period following date of the initial hire shall be excluded. This is often referred to as the Earned Income Disregard.

**Note** – Earned Income Disregard moved to Section 13.8 of the ACOP

11. Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
12. 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;
13. 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
14. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
  - 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(f)(1), 5058);
  - c. Certain 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. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, Section 6);
- g. The first \$2000 of per capita shares received from judgment funds awarded by the Indian National Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and 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). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- h. Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu. For Section 8 programs, only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if that individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended). See definition of Tuition in Glossary;
- i. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(g));
- j. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.);
- k. Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728);
- l. 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);
- m. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221 (d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
- n. 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);
- o. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- p. Any allowance paid under the provisions of 38 U.S.C. 1883© to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);



- q. 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(c));
- r. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));
- s. Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 17680(b)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- t. Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- u. Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));
- v. Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*) and administered by the Office of Native American Programs;
- w. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 f. Supp. 2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291);
- x. Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
- y. Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
- z. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

The PHA will not provide exclusions from income in addition to those already provided for by HUD.

### 11.3 DEDUCTIONS FROM ANNUAL INCOME

The following deductions will be made from annual income:

- A. \$480 for each dependent;

- B. \$400 for any elderly family or disabled family;
- C. The sum of the following, to the extent the sum exceeds three percent of annual income:

**PHA Policy**

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

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

**PHA Policy**

1. *Un-reimbursed medical expenses of any elderly family or disabled family, including any fee paid by the participant for the Medicare Prescription Drug Program; and*
2. *Un-reimbursed 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, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus.*

**PHA Policy**

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

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

*Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.*

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

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

*If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For*

*example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.*

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

- D. Reasonable childcare expenses for children 12 and younger necessary to enable a member of the family to be employed or to further his or her education. This deduction shall not exceed the amount of employment income that is included in annual income.

#### PHA Policy

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

*In evaluating the family's request, the PHA 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.*

### **11.4 RECEIPT OF A LETTER OR NOTICE FROM HUD CONCERNING INCOME**

- A. If a public housing resident receives a letter or notice from HUD concerning the amount or verification of family income, the letter shall be brought to the person responsible for income verification within thirty (30) calendar days of receipt by the resident.
- B. The **Public Housing Property Manager** shall reconcile any difference between the amount reported by the resident and the amount listed in the HUD communication. This shall be done as promptly as possible.
- C. After the reconciliation is complete, the PHA shall, if appropriate, adjust the resident's rent beginning at the start of the next month. If the reconciliation is completed during the final five (5) calendar days of the month, the new rent shall take effect on the first day of the second month following the end of the current month. In addition, if the resident had not previously reported the proper income, the PHA shall do one of the following:
  - 1. Immediately collect the back rent due to the agency;
  - 2. Establish a repayment plan for the resident to pay the sum due to the agency;
  - 3. Terminate the lease and evict for failure to report income; or
  - 4. Terminate the lease, evict for failure to report income, and collect the back rent due to the agency.

### **11.5 COOPERATING WITH WELFARE AGENCIES**

The PHA will make its best efforts to enter into cooperation agreements with local welfare agencies under which the welfare agencies will agree:

- A. To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency; and
- B. To provide written verification to the PHA concerning welfare benefits for families applying for or receiving assistance in its housing assistance programs.

## 12.0 VERIFICATION

The PHA will verify information related to waiting list preferences, eligibility, admission, and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations; full-time student status of family members 18 years of age and older; Social Security numbers; and citizenship/eligible non-citizen status. Age and relationship will only be verified in those instances where needed to make a determination of level of assistance.

### PHA Policy

*When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.*

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

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

## 12.1 ACCEPTABLE METHODS OF VERIFICATION

Age, relationship, U.S. citizenship, and Social Security numbers will generally be verified with documentation provided by the family. In general, citizens and nationals are required to submit a signed declaration, under penalty of perjury, that claims their status. The PHA will require proof of status by such means as a birth certificate, passport, military ID, or military DD214 Form. Verification of these items will include photocopies of the Social Security cards and other documents presented by the family, the INS SAVE approval code, and forms signed by the family.

Other information will be verified by the following verification methods acceptable to HUD, in the order of preference indicated:

*PHA procedures for anticipating annual income will include the use of EIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the PHA interview date.*

*The PHA will follow "HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (EIV) Data Is Available" in handling differences between EIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines substantial difference as a difference of \$200 or more per month.*

**No Substantial Difference.** *If EIV information for a particular income source differs from the information provided by a family by less than \$200 per month, the PHA will follow these guidelines:*

*If the EIV figure is less than the family's figure, the PHA will use the family's information.*

*If the EIV figure is more than the family's figure, the PHA will use the EIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the PHA will use the family-provided information.*

**Substantial Difference.** *If EIV information for a particular income source differs from the information provided by a family by \$200 or more per month, the PHA will follow these guidelines:*

*The PHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).*

*When the PHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the PHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.*

*The PHA will analyze all EIV, third-party, and family-provided data and attempt to resolve the income discrepancy.*

*The PHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.*

## **1. Up-front Income Verifications (UIV)**

UIV is the verification of income through an independent source that systematically maintains income information in computerized form for a large number of individuals.

Current UIV resources include the following:

- a. Enterprise Income Verification (EIV)** – The EIV System is a web-based application, which provides PHAs with employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing (PIH). Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058. Use of the EIV system in its entirety is mandatory for all annual and interim re-examinations. The Housing Authority will monitor the following EIV reports on a monthly basis – (1) Deceased Tenants Report, (2) Identity Verification Report, and the (3) Immigration Report. In addition, it will monitor on a quarterly basis the following EIV reports – (1) Income Discrepancy Report, (2) Multiple Subsidy Report, and (3) the New Hires Report. Whether or not an admission is homeless will be noted in the 50058.
- b. State Wage Information Collection Agencies (SWICAs)**
- c. State systems for the Temporary Assistance for Needy Families (TANF) program**
- d. Credit Bureau Information (CBA) credit reports**
- e. Internal Revenue Service (IRS) Letter 1722**
- f. Private sector databases (e.g. The Work Number)**

The PHA will use additional UIV resources as they become available. This will be done before, during and/or after regular and interim reexaminations of household income as appropriate.

The EIV Income Report must remain in the tenant file for the duration of tenancy and no longer than three years from the end of participation (EOP) date. The Housing Authority is required to maintain at a minimum, the last three years of the form HUD-50058, and supporting documentation for all annual and interim reexaminations of family income. All records are to be maintained for a period of at least three years from the effective date of the action.

## **2. Third-Party Written Verifications**

An original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or the Housing Authority request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is the HUD's position that such tenant-provided documents are written third-party verification since these documents originated from a third-party source. The Housing Authority may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents will be used for income and rent determinations.

The Housing Authority will obtain a minimum of two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the Housing Authority will project income based on the information from a traditional written third-party verification form or the best available information.

**Note:** Documents older than 60 days (from the Housing Authority interview/determination or request date) is acceptable for confirming effective dates of income.

**Note:** Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant.

The PHA will allow two (2) weeks for the return of third-party written verifications prior to continuing on to the next type of verification.

## **3. Written Third-Party Verification Form**

Also known as traditional third-party verification. A standardized form to collect information from a third-party source is distributed by the Housing Authority. The form is completed by the third-party by hand (in writing or typeset) when sent the form by the Housing Authority.

HUD recognizes that third-party verification request forms sent to third-party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third-party source to provide false information; or the tenant intercepts the form and provides false information.

HUD requires the Housing Authority to rely on documents that originate from a third-party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third-party verification request form. The use of acceptable tenant-provided documents, which originate from a third-party source, will improve the

integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

The Housing Authority will allow two (2) weeks for the return of third-party written verifications prior to continuing on to the next type of verification.

**4. Third-Party Oral Verifications**

This type of verification includes direct contact with the source, in person or by telephone. When this method is used, staff members will be required to document in writing with whom they spoke, the date of the conversation, the telephone number, and the facts obtained.

The PHA will allow two (2) business days for the return of third-party oral verifications prior to continuing on to the next type of verification.

**5. Review of Documents**

When UIV, written and oral-third party verifications are not available within the two (2) week and two (2) business day period allowed in paragraphs 3 and 4 above, the PHA will use the information received by the family, provided that the documents provide complete information. Photocopies of the documents, excluding government checks, provided by the family will be maintained in the file. In cases in which documents are viewed and cannot be photocopied, staff reviewing the documents will complete a written statement as to the contents of the document(s).

**6. Self-Certification and Self-Declaration**

When UIV, written and oral third-party verifications are not available within the two (2) week and two (2) business day period allowed in paragraphs 3 and 4 above, and hand-carried verification cannot be obtained, the PHA will accept a statement detailing information needed, signed by the head, spouse, co-head, or other adult family member.

Third-party written, third-party oral and family-provided verifications may also be used to supplement Up-front Income Verifications. They will be used when there is a discrepancy of \$200 a month or more and the participant disputes the UIV results.

Verification forms and reports received will be contained in the applicant/tenant file. Oral third-party documentation will include the same information as if the documentation had been written, i.e. name, date of contact, amount received, etc.

When any verification method other than Up-front Income Verification is utilized, the PHA will document the reason for the choice of the verification methodology in the applicant/resident's file.



The following chart comes from PIH Notice 2010-19.

<b>Level</b>	<b>Verification Technique</b>	<b>Ranking</b>
<b>6</b>	<b>Up-front Income Verification (UIV)</b> using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	<b>Highest</b> (Mandatory)
<b>5</b>	<b>Up-front Income Verification (UIV)</b> using non-HUD system	<b>Highest</b> (Optional)
<b>4</b>	<b>Written Third-Party Verification</b>	<b>High</b> (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute)
<b>3</b>	<b>Written Third-Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
<b>2</b>	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third-party verification is not available)
<b>1</b>	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third party verification)

**UP-FRONT INCOME VERIFICATIONS PRIVACY REQUIREMENTS:**

It is important to note that UIV data will only be used to verify a resident's eligibility for participation in a rental assistance program and to determine the level of assistance the resident is entitled to receive and only by properly trained persons whose duties require access to this information. Any other use, unless approved by the HUD Headquarters UIV Security System Administrator, is specifically prohibited and will not occur.

No adverse action can be taken against a resident until the PHA has independently verified the UIV information and the resident has been granted an opportunity to contest any adverse findings through the established grievance procedure.

Furthermore, the information the PHA derives from the UIV system will be protected to ensure that it is utilized solely for official purposes and not disclosed in any way that would violate the privacy of the affected individuals.

The EIV Income Report must remain in the tenant file for the duration of tenancy and no longer than three years from the end of participation (EOP) date. The Housing Authority is required to maintain at a minimum, the last three years of the form HUD-50058, and supporting documentation for all annual and interim reexaminations of family income. All records are to be maintained for a period of at least three years from the effective date of the action.

## 12.2 TYPES OF VERIFICATION

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third-party verification, the PHA will send or fax a request form to the source along with a release form signed by the applicant/tenant.

Verification Requirements for Individual Items		
Item to Be Verified	3 <sup>rd</sup> party verification	Hand-carried verification
<b>General Eligibility Items</b>		
Social Security Number	Not Allowed	Original Social Security Card, an appropriate government letter showing the number or other HUD-allowed method.
Citizenship	N/A	Signed certification, voter's registration card, birth certificate, etc.
Eligible immigration status	INS SAVE confirmation #	INS card
Disability	Letter from medical professional, SSI, etc	Proof of SSI or Social Security disability payments
Full time student status (if >18)	Letter from school	For high school and/or college students, any document evidencing enrollment
Need for a live-in aide	Letter from doctor or other professional knowledgeable of condition	N/A
Childcare costs	Letter from care provider	Bills and receipts
Disability assistance expenses	Letters from suppliers, care givers, etc.	Bills and records of payment
Medical expenses	Letters from providers, prescription record from pharmacy, medical professional's letter stating assistance or a companion animal is needed	Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls
Medical Prescription Drug Program		A card issued by the private prescription drug plan with the words Medicare Rx on it
<b>Value of and Income from Assets***</b>		
Savings, checking accounts	Letter from institution	Passbook, most current statements
CDs, bonds, etc	Letter from institution	Tax return, information brochure from institution, the CD, the bond
Stocks	Letter from broker or holding company	Stock or most current statement, price in newspaper or through Internet
Real property	Letter from tax office, assessment, etc.	Property tax statement (for current



### **12.3 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS**

The citizenship/eligible non-citizen status of each family member regardless of age must be determined.

Prior to being admitted, or at the first reexamination, all citizens and nationals will be required to sign a declaration under penalty of perjury. They will be required to show proof of their status by such means as a birth certificate, military ID, or military DD 214 Form.

Prior to being admitted or at the first reexamination, all eligible non-citizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age.

Prior to being admitted or at the first reexamination, all eligible non-citizens must sign a declaration of their status and a verification consent form and provide their original INS documentation. The PHA will make a copy of the individual's INS documentation and place the copy in the file. The PHA will also verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, the PHA will mail information to the INS in order that a manual check can be made of INS records.

Family members who do not claim to be citizens, nationals, or eligible non-citizens must be listed on a statement of non-eligible members and the list must be signed by the head of the household.

Non-citizen students on student visas, though in the country legally, are not eligible to be admitted to public housing. If they are members of families that include citizens, the rent must be pro-rated.

Any family member who does not choose to declare their status must be listed on the statement of non-eligible members.

If no family member is determined to be eligible under this section, the family's eligibility will be denied.

The family's assistance will not be denied, delayed, reduced, or terminated because of a delay in the process of determining eligible status under this section, except to the extent that the delay is caused by the family.

If the PHA determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their public housing unit, the family will be evicted. Such family will not be eligible to be readmitted to public housing for a period of 24 months from the date of eviction or termination.

### **12.4 VERIFICATION OF SOCIAL SECURITY NUMBERS**

Prior to admission, every family member regardless of age must provide the Portsmouth Housing Authority with a complete and accurate Social Security Number unless they do not contend eligible immigration status. New family members must provide this verification prior to being added to the lease. If the new family member is under the age of six and has not been assigned a Social Security Number, the family shall have ninety (90) calendar days after starting to receive the assistance to provide a complete and accurate Social Security Number. The Portsmouth Housing Authority may grant one ninety (90) day extension for newly-added family members under the age of six if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and was outside the control of the person.

If a person is already a program participant and has not disclosed his or her Social Security Number, it must be disclosed at the next re-examination or re-certification. Participants aged 62 or older as of January 31, 2010 whose initial eligibility determination was begun before January 31, 2010 are exempt from the required disclosure of their Social Security Number. This exemption continues even if the individual moves to a new assisted unit.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, the Portsmouth Housing Authority will accept an original document issued by a federal or state government agency, which contains the name of the individual and the Social Security Number of the individual, along with other identifying information of the individual or such other evidence of the Social Security Number as HUD may prescribe in administrative instructions.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided.

If an individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated. The Portsmouth Housing Authority may grant one ninety (90) day extension from termination if in its sole discretion it determines that the person's failure to comply was due to circumstances that could not have reasonably been foreseen and there is a reasonable likelihood that the person will be able to disclose a Social Security Number by the deadline.

## **12.5 TIMING OF VERIFICATION**

Verification information must be dated within ninety (90) calendar days of certification or reexamination.

### **PHA Policy**

*If the verification is older than ninety (90) calendar days, verifications may be extended for an additional thirty(30) days with a telephone update. A record of the update, including the name and title of the individual contacted, must be placed in the tenant's file.*

*When an interim reexamination is conducted, the PHA will verify and update only those elements reported to have changed unless the PHA has reason to believe other elements have changed.*

## **12.6 FREQUENCY OF OBTAINING VERIFICATION**

Household composition will be verified annually. The frequency that household income will be verified depends on the type of rent method chosen by the family.

For each family member, citizenship/eligible non-citizen status will be verified only once unless the family member is an eligible immigrant in a transitional stage of admission. In this situation, their status must be updated until they are admitted for permanent residency. This verification will be obtained prior to admission. If the status of any family member was not determined prior to admission, verification of their status will be obtained at the next regular reexamination. Prior to a new member joining the family, his/her citizenship/eligible non-citizen status will be verified.

For each family member, verification of Social Security number will be obtained only once. This verification will be accomplished prior to admission.

## **12.7 DISCREPANCIES IN VERIFIED INFORMATION**

An EIV Income Report shall be pulled from the system before annual or interim reexamination is conducted for any family and compared with family-reported information. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference (defined as \$2400 or more annually) in the reported income information, the Housing Authority will:

- A. Discuss the income discrepancy with the tenant; and
- B. Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
- C. In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the Housing Authority will request from the third-party source, any information

necessary to resolve the income discrepancy; and

- D. If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively\*; and
- E. Take any other appropriate action.

\*The Housing Authority will determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

The tenant will be provided an opportunity to contest the Housing Authority's determination of tenant rent underpayment. Tenants will be promptly notified in writing of any adverse findings made on the basis of the information verified through the aforementioned income discrepancy resolution process. The tenant may contest the findings in accordance with established grievance procedures. The Housing Authority will not terminate, deny, suspend, or reduce the family's assistance until the expiration of any notice or grievance period.

When there is an unsubstantial or no disparity between tenant-reported and EIV-reported income information, the Housing Authority will obtain from the tenant, any necessary documentation to complete the income determination process. As noted previously, the Housing Authority may reject any tenant-provided documentation, if the Authority deems the documentation unacceptable. Documentation provided by the tenant will only be rejected for only the following reasons:

- A. The document is not an original; or
- B. The original document has been altered, mutilated, or is not legible; or
- C. The document appears to be a forged document (i.e. does not appear to be authentic).

The Housing Authority will explain to the tenant, the reason(s) the submitted documents are not acceptable and request the tenant to provide additional documentation. If at any time, the tenant is unable to provide acceptable documentation that the Housing Authority deems necessary to complete the income determination process, the Authority will submit a traditional third-party verification form to the third-party source for completion and submission to the Housing Authority.

If the third-party source does not respond to the Housing Authority's request for information, the Authority is required to document the tenant file of its attempt to obtain third-party verification and that no response to the third-party verification request was received.

The Housing Authority will then pursue lower level verifications in accordance with the verification hierarchy.

### **13.0 DETERMINATION OF TOTAL TENANT PAYMENT AND TENANT RENT**

#### **13.1 FAMILY CHOICE**

At admission and each year in preparation for its annual reexamination, each family is given the choice of having its rent determined under the income method or having its rent set at the flat rent amount.

- A. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review it would otherwise undergo. The family composition must still be reviewed annually.
- B. Families who opt for the flat rent may request a reexamination and return to the income based method at any time for any of the following reasons:
  - 1. The family's income has decreased.
  - 2. The family's circumstances have changed increasing its expenses for childcare, medical care, etc.
  - 3. Other circumstances creating a hardship on the family such that the income method would be more financially feasible for the family.
- C. Families have only one choice per year except for financial hardship cases. In order for families to make informed choices about their rent options, the PHA will provide them with the following information whenever they have to make rent decisions:
  - 1. The PHA's policies on switching types of rent in case of a financial hardship; and
  - 2. The dollar amount of tenant rent for the family under each option. If the family chose a flat rent for the previous year, the PHA will provide the amount of income-based rent for the subsequent year only the year the PHA conducts an income reexamination or if the family specifically requests it and submits updated income information.

#### **13.2 THE INCOME METHOD**

The total tenant payment is equal to the highest of:

- A. 10% of the family's monthly income;
- B. 30% of the family's adjusted monthly income; or
- C. The minimum rent of \$50.00.

#### **13.3 MINIMUM RENT**

##### **PHA Policy**

*The PHA has set the minimum rent at \$50.00.*

If the family requests a hardship exemption, however, the PHA will suspend the minimum rent beginning the month following the family's request until the PHA can determine whether the hardship exists and whether the hardship is of a temporary or long-term nature.

- A. A hardship exists in the following circumstances:

1. When the family has lost eligibility for or is waiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen 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;

**PHA 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. When the family would be evicted because it is unable to pay the minimum rent;

**PHA 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 tenant-paid utilities.*

3. When the income of the family has decreased because of changed circumstances, including loss of employment; and

4. When a death has occurred in the family.

**PHA 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).*

**PHA Policy**

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

*The PHA will make the determination of hardship within 30 calendar days.*

- B. No hardship.

**PHA Policy**

*The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.*

- C. Temporary hardship.

**PHA Policy**

*If the PHA reasonably determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 calendar days from the beginning of the suspension of the minimum rent. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. The PHA will offer a repayment agreement in accordance with Section 19 of this policy for any rent not paid during the period of suspension. During the suspension period the PHA Authority will not evict the family for nonpayment of the amount of tenant rent owed for the suspension period.*



- D. Long-term hardship. If the PHA determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.

**PHA Policy**

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

- (1) *At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.*
- (2) *For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.*
- (3) *For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.*

- E. Appeals. The family may use the Grievance Procedure to appeal the PHA determination regarding the hardship. No escrow deposit will be required in order to access the grievance procedure.

**13.4 THE FLAT RENT**

The PHA has set a flat rent for each public housing unit. The flat rent is determined annually, based on the market rental value of the unit using one of the following three options:

- A. Option One: The Portsmouth Housing Authority will establish a flat rent for each public housing unit that is no less than 80 percent of the applicable Fair Market Rent (FMR) as determined under 24 CFR part 888, subpart A;
- B. Option Two: No less than 80 percent of an applicable small area FMR (SAFMR) or unadjusted rent<sup>1</sup>, if applicable, as determined by HUD, or any successor determination, that more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used in the first paragraph of this section. If HUD has not determined an applicable SAFMR or unadjusted rent<sup>1</sup>, the Portsmouth Housing Authority will rely on the applicable FMR under the first option or may apply for an exception flat rent under the third option. No other smaller geographical FMRs will be allowed by HUD; (See footnote 1 for HUD's definition of "unadjusted rent" as relates to Flat Rent requirements);
- C. Option Three: The Portsmouth Housing Authority may request, and HUD may approve, on a case-by-case basis, a flat rent that is lower than the amounts in Options One or Two of this section, subject to the following requirements:
  1. The Portsmouth Housing Authority must submit a market analysis of the applicable market.
  2. The Portsmouth Housing Authority must demonstrate, based on the market analysis, that the proposed flat rent is a reasonable rent in comparison to rent for other comparable unassisted units, based on the location, quality, size, unit type, and age of the public housing unit and any amenities, housing services, maintenance, and utilities to be provided by the PHA in accordance with the lease.
  3. All requests for exception flat rents under this option must be submitted to HUD.

The Portsmouth Housing Authority will not implement Option Three prior to receiving HUD's written approval. A new market analysis and a new HUD written approval is required every year.

The option chosen to establish the required flat rent will be the sole decision of the Portsmouth Housing Authority.

There is no utility allowance for families paying a flat rent because the Portsmouth Housing Authority has already factored who pays for the utilities into the flat rent calculation. If the resident pays their own utilities, the calculated flat rent shall be reduced by a reasonable utility allowance based on an energy-conservative household of modest circumstances.

Annually, no later than 90 days after issuance of new FMRs or SAFMRs by HUD, the Portsmouth Housing Authority will compare the current flat rent amount to the applicable FMR and SAFMR/unadjusted rent<sup>1</sup>. If the flat rent is at least 80 percent of the lower of the FMR or SAFMR/unadjusted rent, the Portsmouth Housing Authority is in compliance with the law, and no further steps are necessary. If the flat rent is less than 80 percent of the lower of the FMR and SAFMR, the Portsmouth Housing Authority will adjust the flat rents at no less than 80 percent of the lower of the FMR or SAFMR/unadjusted rent<sup>1</sup>, subject to the utilities adjustment required for tenant-paid utilities, or the Portsmouth Housing Authority may request an exception flat rent pursuant to Option Three, as described above. Revised flat rents will become effective for all families admitted after the flat rent is changed or at the lease renewal for an existing resident. (See footnote 1 for HUD's definition of "unadjusted rent" as relates to Flat Rent requirements).

As for flat rent phase-ins, previous regulations in PIH Notice 2014-12 and the subsequent FAQ's, HUD provided flexibility to PHAs to phase in all flat rent increases over a three-year period, including those increases that were 35 percent or less.

However, the FY 2015 Appropriations Act provides the Portsmouth Housing Authority additional flexibility to establish flat rents at lower amounts, thereby eliminating the need for the three-year phase-in of flat rent increases that are 35 percent or less. **Therefore, the only flat rent increases that will be phased-in are those where a family's rent will increase by more than 35 percent.**

Agencies that began phase-ins for families with rent increases at 35 percent or less last year shall follow the actions outlined below at the family's next annual rent option:

- 1) On a case-by-case basis, at the family's next annual rent option, compare the updated flat rent amount applicable to the unit to the rent that was being paid by the family immediately prior to the annual rent option;
  - a. If the updated flat rent amount would not increase a family's rental payment by more than 35 percent, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent;
  - b. If the agency determines that the updated flat rent amount would increase a household's rental payment by more than 35 percent, the family may choose to pay the phased-in flat

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<sup>1</sup> The unadjusted rent is the FMR estimated directly from the American Community Survey (ACS) source data that HUD uses to calculate FMRs before HUD applies its state non-metropolitan minimum rent policy. HUD maintains a minimum FMR policy within Housing Choice Voucher program (HCV) in response to numerous public concerns that FMRs in rural areas were too low to operate the HCV program successfully. The policy establishes the FMRs at the higher of the local FMR or the State-wide average FMR of non-metropolitan counties, subject to a ceiling rent cap. The rationale for having a state minimum FMR is that some low-income, low-rent non-metropolitan counties have ACS-based FMR estimates that appear to be below long-term operating costs for standard quality rental units and raise concerns about housing quality. State minimum FMRs have been set at the respective state-wide population weighted median non-metropolitan rent level, but are not allowed to exceed the U.S. median non-metropolitan rent level.

rent amount resulting from the flat rent impact analysis or the previously calculated income-based rent.

Affected families will be given a 30-day notice of any rent change. Adjustments are applied at the end of the annual lease (for more information on flat rents, see Section 15.3).

The PHA will post the flat rents at each of the developments and at the central office. Flat rents are incorporated in this policy upon approval by the Board of Commissioners.

### **13.5 RENT FOR FAMILIES UNDER THE NONCITIZEN RULE**

A mixed family will receive full continuation of assistance if all of the following conditions are met:

- A. The family was receiving assistance on June 19, 1995;
- B. The family was granted continuation of assistance before November 29, 1996;
- C. The family's head or spouse has eligible immigration status; and
- D. The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

The family's assistance is prorated in the following manner:

- A. Step 1. Determine the total tenant payment in accordance with 24 CFR §5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- B. Step 2. Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.
- C. Step 3. Subtract the total tenant payment from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").
- D. Step 4. Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy."
- E. Step 5. Multiply the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members"). The product of this calculation is the "eligible subsidy."
- F. Step 6. The mixed family TTP is the maximum rent minus the amount of the eligible subsidy.
- G. Step 7. Subtract any applicable utility allowance from the mixed family TTP. The result of this calculation is the mixed family tenant rent.

When the mixed family's TTP is greater than the maximum rent, the Portsmouth Housing Authority will use the TTP as the mixed family TTP.

### **13.6 UTILITY ALLOWANCE**

The PHA shall establish a utility allowance for all check-metered utilities and for all tenant-paid utilities.

The allowance will be based on a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful environment. In setting the allowance, the PHA will review the actual consumption of tenant families as well as changes made or anticipated due to modernization (weatherization efforts, installation of energy-efficient appliances, etc). Allowances will be evaluated at least annually as well as any time utility rate changes by 10% or more since the last revision to the allowances.

The utility allowance will be subtracted from the family's income-based rent to determine the amount of the Tenant Rent (*currently at Gosling Meadows and Feaster Apartment Developments only*). The Tenant Rent is the amount the family owes each month to the PHA. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belongs to the tenant.

For PHA paid utilities, the PHA will monitor the utility consumption of each household. Any consumption in excess of the allowance established by the PHA will be billed to the tenant monthly.

Utility allowance revisions based on rate changes shall be effective retroactively to the first day of the month following the month in which the last rate change took place. Revisions based on changes in consumption or other reasons shall become effective at each family's next annual reexamination.

Families with high utility costs are encouraged to contact the PHA for an energy analysis. The analysis may identify problems with the dwelling unit that once corrected will reduce energy costs. The analysis can also assist the family in identifying ways they can reduce their costs.

Requests for relief from surcharges for excess consumption of PHA purchased utilities or from payment of utility supplier billings in excess of the utility allowance for tenant-paid utility costs may be granted by the PHA on reasonable grounds. Requests shall be granted to families that include an elderly member or a member with disabilities. Requests by the family shall be submitted under the Reasonable Accommodation Policy. Families shall be advised of their right to individual relief at admission to public housing and at time of utility allowance changes.

### **13.7 PAYING RENT**

Rent and other charges are due and payable on the first day of the month. All checks and money orders must be made payable to the Portsmouth Housing Authority.

If the rent is not paid by the fifth of the month, a Notice to Vacate will be issued to the tenant. If rent is paid by a personal check and the check is returned for insufficient funds, this shall be considered a non-payment of rent and will incur the late charge plus an additional charge of \$15.00 for bank charges and/or processing costs.

### **13.8 EARNED INCOME DISREGARD (EID)**

For adult family members residing in public housing, the Earned Income Disregard (EID) excludes income earned by family members who meet one of the following criteria:

1. Families whose income increases as a result of employment of a family member who was previously unemployed (defined as working less than 10 hours a week at the established minimum wage) for one or more years.
2. Families whose income increases during the participation of a family member in any economic self-sufficiency or other job training program.
3. Persons who are or were, within 6 months, assisted under a State TANF or Welfare-to-Work program for at least \$500.

## **CURRENT EID PARTICIPANTS**

For family members that currently benefit from the EID, and/or who become eligible **prior to 1/1/2017**:

### **Initial Twelve Month Exclusion**

- Qualified families will receive during the first cumulative 12 month period beginning with date of employment, an exclusion of 100% of any increase of annual income as a result of employment. EID will begin on the first day of the month following the effective date of employment.

### **Second Twelve Month Phase-In Exclusion**

- Qualified families will receive during the second cumulative 12 month period of time after the expiration of the initial cumulative twelve month period as stated above, an exclusion of 50% of any increase of annual income as a result of employment.

### **Maximum Four Year Disallowance**

- The Earned Income Disallowance is limited to a lifetime 48 month period for each family member. Each qualified family member will receive a full 12 month income exclusion and a full 12 month phase-in come exclusion beginning from the date of the initial exclusion.
- The lifetime Disregard will end 48 months after it began, regardless of how many months were “used”.

## **EID PARTICIPANTS QUALIFYING ON OR AFTER 1/1/2017:**

For family members qualifying on or after **1/1/2017**, the two (12) month periods of income exclusion are not cumulative over the total 24 month period. EID for these family members is as follows:

- Once a family member is determined to be eligible for the EID, the 24 month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the 24 month period continues;
- During the 24 month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the first 12 month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12 month period, the Housing Authority will exclude from annual income of the family 50 percent of any increase in income of such family member as a result of employment over the family member’s income before the qualifying event (i.e., the family member’s baseline income);
- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- The lifetime Disregard will end 24 months after it began, regardless of how many months were “used”.

(While HUD regulations allow for the housing authority to offer an escrow account in lieu of having a portion of their income excluded under this paragraph, it is the policy of this housing authority to provide the exclusion in all cases.)

## **14.0 COMMUNITY SERVICE AND SELF-SUFFICIENCY REQUIREMENT**

### **14.1 GENERAL**

In order to be eligible for continued occupancy, each adult family member must either (1) contribute eight hours per month of community service (not including political activities), or (2) participate in an economic

self-sufficiency program, or (3) perform eight hours per month of combined activities as previously described unless they are exempt from this requirement. The eight hours of activity may be completed at eight hours each month or aggregated across a year, as long as 96 hours are completed by each annual certification

## 14.2 EXEMPTIONS

The following adult family members of tenant families are exempt from this requirement:

- A. Family members who are 62 or older.
- B. Family members who are:
  - 1. blind or disabled as defined under 216(I)(1) or 1614 of the Social Security Act (42 U.S.C. 416(I)(1), Section 1382(c)) and who certify that because of this disability she or he is unable to comply with the community service requirements;
  - or
  - 2. Family members who are the primary care giver of such individual.
- C. Family members engaged in work activities as defined in section 407(d) of the Social Security Act (42 U.S.C. Section 607(d)), specified below: ***A resident must work a minimum of twenty (20) hours per week.***
  - 1. Unsubsidized employment;
  - 2. Subsidized private-sector employment;
  - 3. Subsidized public-sector employment;
  - 4. Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
  - 5. On-the-job-training;
  - 6. Job-search;
  - 7. Community service programs;
  - 8. Vocational educational training (not to exceed 12 months with respect to any individual);
  - 9. Job-skills training directly related to employment;
  - 10. 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; and
  - 11. 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.
- D. Able to meet requirements under a State program funded under Part A of Title IV of the Social Security Act (42 U.S.C. Section 601 et seq.) or under any other welfare program in our State, including a State-administered Welfare-to-Work program; or
- E. 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 (42 U.S.C. Section 601 et seq.), or under any other welfare program of our State (HUD has determined that the Supplemental Nutrition Assistance Program (SNAP) qualifies as a welfare program of the state. Therefore, if a tenant is a member of a family receiving assistance under SNAP, and has been found by the State to be in compliance with the program requirements, that tenant is exempt from the CSSR, including a State-administered Welfare-to-Work program, and has not been found by the State or other administering entity to be in non-compliance with such a program.

#### **14.3 NOTIFICATION OF THE REQUIREMENT**

The PHA shall identify all adult family members who are apparently not exempt from the community service requirement.

The Portsmouth Housing Authority shall notify all such family members of the community service requirement and of the categories of individuals who are exempt from the requirement. The notification will provide the opportunity for family members to claim and explain an exempt status in writing. The Portsmouth Housing Authority shall verify such claims. If a resident does not agree with the Portsmouth Housing Authority's determination, he or she can appeal by following the Grievance Policy. Changes in exempt or non-exempt status of a resident shall be reported by the resident to the Portsmouth Housing Authority within ten (10) calendar days of the change.

At lease execution or re-examination, all adult members (18 or older) of a public housing resident family must:

- A. Provide all requested documentation, if applicable, that they qualify for an exemption; (Documentation provided by the tenant will be used (and verified if necessary) by the Portsmouth Housing Authority to determine whether the tenant is exempt from the CSSR), and
- B. Sign a certification that they have received and read the policy and understand that, if they are not exempt, failure to comply with the community service requirement will result in non-renewal of their lease, per 24 CFR 966.4(1)(2)(iii)(D).

When a non-exempt person becomes exempt, it is his or her responsibility to report this to the Portsmouth Housing Authority and provide documentation. When an exempt person becomes non-exempt, it is his or her responsibility to report this to the Portsmouth Housing Authority as soon as possible.

For families paying a flat rent, the obligation begins on the date their annual reexamination would have been effective had an annual reexamination taken place. It will also advise them that failure to comply with the community service requirement will result in ineligibility for continued occupancy at the time of any subsequent annual reexamination.

#### **14.4 VOLUNTEER OPPORTUNITIES & ECONOMIC SELF-SUFFICIENCY**

Eligible community service activities include, but are not limited to, serving at:

- A. Local public or non-profit institutions, such as schools, Head Start Programs, before- or after-school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult daycare programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing);
- B. Non-profit organizations serving Portsmouth Housing Authority residents or their children, such as: Boy or Girl Scouts, Boys or Girls Club, 4-H Clubs, Police Activities League (PAL), organized children's recreation, mentoring, or education programs, Big Brothers or Big Sisters, Garden Centers, community clean-up programs, beautification programs;

- C. Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;
- D. Public or non-profit 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;
- E. Portsmouth Housing Authority housing to improve grounds or provide gardens (so long as such work does not alter the Portsmouth Housing Authority's insurance coverage), or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board, outreach and assistance with Portsmouth Housing Authority-run self-sufficiency activities including supporting computer learning centers; and
- F. Care for the children of other residents so parents may volunteer.

Residents may perform their community service hours at governmental or non-profit organizations. Any required court-ordered community service or probation-based work **shall not** count towards a resident's required 8 hours per month of community service.

Eligible self-sufficiency activities include, but are not limited, to:

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- A. Job readiness or job training while not employed;
- B. 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;
- C. Higher education (junior college or college);
- D. Apprenticeships (formal or informal);
- E. Substance abuse or mental health counseling;
- F. Reading, financial and/or computer literacy classes;
- G. English as a Second Language and/or English proficiency classes;
- H. Budgeting and credit counseling.

**Note: Political activity is excluded for purposes of eligible community service activities.**

An economic self-sufficiency program is one that is designed to encourage, assist, train or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include programs for job training, work placement, basic skills training, education, English proficiency, work fare, financial or household management, apprenticeship, and any program necessary to ready a participant to work (such as substance abuse or mental health treatment).

#### **14.5 THE PROCESS**

Upon admission and each annual reexamination thereafter, the PHA will do the following:

- A. **Provide a copy of the community service requirement.**
- B. **Provide 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.**



At each regularly scheduled rent re-examination, each non-exempt family member will present a signed certification on a form provided by the Portsmouth Housing Authority of CSSR activities performed over the previous twelve (12) months. The Portsmouth Housing Authority will obtain third-party verification of CSSR completion administered through outside organizations.

#### **14.6 NOTIFICATION OF NON-COMPLIANCE WITH COMMUNITY SERVICE REQUIREMENT**

The PHA will notify any family found to be in noncompliance of the following:

- A. The family member(s) has been determined to be in noncompliance;
- B. That the determination is subject to the Grievance Procedure, a right to be represented by counsel, and the opportunity to any available judicial remedy; and
- C. That, unless the family member(s) enter into a written work-out agreement, the lease will not be renewed;

#### **14.7 OPPORTUNITY FOR CURE**

The PHA will offer the family member(s) the opportunity to enter into a work-out agreement prior to the anniversary of the lease. The agreement shall state that the family member(s) agrees to enter into an economic self-sufficiency program or agrees to contribute to community service for as many hours as needed to comply with the requirement over the past 12-month period. It will state the number of hours that the family member is deficient. The cure shall occur over the 12-month period beginning with the date of the agreement and the resident shall at the same time stay current with that year's Community Service requirement. The first hours a resident earns go toward the current commitment until the current year's commitment is made.

If any applicable family member does not accept the terms of the agreement, does not fulfill their obligation to participate in an economic self-sufficiency program, or falls behind in their obligation under the agreement to perform Community Service, the PHA shall take action to terminate the lease unless the noncompliant family member no longer lives in the unit.

#### **14.8 PROHIBITION AGAINST REPLACEMENT OF AGENCY EMPLOYEES**

In implementing the service requirement, the PHA may not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by its employees or replace a job at any location where residents perform activities to satisfy the service requirement.

## 15.0 RECERTIFICATIONS

At least annually, the PHA will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family is housed in the correct unit size.

### 15.1 GENERAL

The PHA will send a notification letter **or e-mail** to the family letting them know that it is time for their annual reexamination, giving them the option of selecting either the flat rent or income method, and scheduling an appointment if they are currently paying an income rent. If the family thinks they may want to switch from a flat rent to an income rent, they should request an appointment. At the appointment, the family can make their final decision regarding which rent method they will choose. The letter also includes, for those families paying the income method, forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the appointment, the PHA will determine whether family composition may require a transfer to a different bedroom size unit, and if so, the family's name will be placed on the transfer list.

Families will also be given the opportunity to update their HUD Form 92006 if applicable and if they so desire.

At the time of each family's annual recertification, PHA will conduct a criminal background check on all adult household members age 18 of years and older, including live-in aides, at no cost to the applicant. This check will be made through State or local law enforcement. This criminal background check will proceed after each adult household member has signed a consent form.

The information received as a result of the criminal background check shall be used solely for screening, lease enforcement and eviction purposes. The information derived from the criminal background check shall be shared only with employees of the PHA who have a job-related need to have access to the information. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished and the period for filing a challenge to the PHA's action has expired without a challenge or final disposition of any litigation has occurred.

If the recertification screening reveals that the tenant or a member of the tenant's household has a criminal record, or that the tenant has falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification forms, the Housing Authority will pursue eviction of the household.

Also, during the recertification, each household shall be asked whether any member is subject to the lifetime registration requirement under a state registration program. The Housing Authority will verify this information using the Dru Sjojin National Sec Offender Database and document this information in the same method used at admission. For any admissions after June 25, 2001 (the effective date of the Screening and Eviction for Drug Abuse and Other Criminal Activity final rule), if the recertification screening reveals that the tenant or a member of the tenant's household is subject to a lifetime sex offender registration requirement, or that the tenant has falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification forms, the Housing Authority will pursue eviction of the household.

If a family is about to be evicted from housing based on either the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the eviction occurs.

## 15.2 MISSED APPOINTMENTS

If the family fails to respond to the letter or e-mail and fails to attend the interview, a second letter or e-mail will be sent. The second letter, or e-mail, will advise of a new time and date for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter, or e-mail, will also advise that failure by the family to attend the second scheduled interview will result in the PHA taking eviction actions against the family.

## 15.3 FLAT RENTS

The annual letter to flat rent payers regarding the reexamination process will state the following:

- A. Each year at the time of the annual reexamination, the family has the option of selecting a flat rent amount in lieu of completing the reexamination process and having their rent based on the income amount.
- B. The amount of the flat rent.
- C. A fact sheet about income rents that explains the types of income counted, the most common types of income excluded, and the categories of allowances that can be deducted from income.
- D. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they otherwise would undergo.
- E. Families who opt for the flat rent may request to have a reexamination and return to the income based method at any time for any of the following reasons:
  - 1. The family's income has decreased.
  - 2. The family's circumstances have changed increasing their expenses for childcare, medical care, etc.
  - 3. Other circumstances creating a hardship on the family such that the income method would be more financially feasible for the family.

Once a family returns to the income based method during their “lease year” they cannot go back to a flat rent until their next regular annual reexamination.

- F. The dates upon which the PHA expects to review the amount of the flat rent, the approximate rent increase the family could expect, and the approximate date upon which a future rent increase could become effective.
- G. The name and phone number of an individual to call to get additional information or counseling concerning flat rents.
- H. A certification for the family to sign accepting or declining the flat rent.

Each year prior to their anniversary date, PHA will send a reexamination letter to the family offering the choice between a flat rent or an income rent. The opportunity to select the flat rent is available only at this time. At the appointment, the PHA may assist the family in identifying the rent method that would be most advantageous for the family. If the family wishes to select the flat rent method without meeting with the PHA representative, they may make the selection on the form and return the form to the PHA. In such case, the PHA will cancel the appointment and solely verify the family size and whether it is in an appropriate size unit.

## 15.4 THE INCOME METHOD

During the interview, the family will provide all information regarding income, assets, deductions (eligible expenses), and other information necessary to determine the family's share of rent. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, the PHA will determine the family's annual income and will calculate its rent as follows.

The total tenant payment is equal to the highest of:

- A. 10% of the family's monthly income;
- B. 30% of the family's adjusted monthly income;
- C. The welfare rent; or
- C. The minimum rent.

The family shall be informed of the results of the rent calculation under both the Income Method and the Flat Rent and given their choice of which rent to pay.

### **OVER-INCOME FAMILIES [24 CFR 960.261; NOTICE 07/26/2018]:**

The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over-income requirement states that after a family's income has exceeded 120 percent of area median income (AMI) (or a different limitation established by the secretary) for two (2) consecutive years, PHA must either terminate the family's tenancy within six months of the determination, or charge the family a monthly rent that is higher of the applicable market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the capital funds, as determined by regulations. PHAs also have discretion under 24 CFR 960.261 to adopt policies allowing termination of tenancy for families whose income exceeds the limit for program eligibility. Such policies would exempt families currently receiving the earned income disallowance.

PHA Policy:

At annual or interim reexamination, if a family's income exceeds the applicable over income limit, the PHA will document the family file and begin tracking the family's over-income status.

If one year after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, PHA will notify the family in writing that their income has exceeded the over-income limit for one year, and that if the family continues to be over-income for 12 consecutive months, the family will be subject to PHA's over-income policies.

If two years after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the PHA will charge the family a rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit. The PHA will notify the family in writing of their new rent amount. The new rent amount will be effective 30 days after PHA's written notice to the family.

If, at any time, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHA policy. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. PHA will notify the family in writing that over-income policies no longer apply to them. If the family's income later exceeds the over-income limit again, the family is entitled to a new two-year grace period.

PHA will begin tracking over-income families once these policies have been adopted, but no later than March 24, 2019. PHA may terminate tenancy for families whose income exceeds the limit for the program eligibility as described at 24 CFR 960.261.

### **15.5 EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL REEXAMINATIONS**

The new rent will generally be effective upon the anniversary date with thirty (30) calendar days notice of any rent increase to the family.

If the rent determination is delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which the family receives a 30-day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent amount is determined.

### **15.6 INTERIM REEXAMINATIONS**

During an interim reexamination, only the information affected by the changes being reported will be reviewed and verified.

Families are required to report all increases or decreases in income, including new employment, and increases or decreases in allowable expenses within 10 calendar days of the date the change takes effect.

Families are required to report the following changes to the PHA between regular reexaminations. If the family's rent is being determined under the income method, these changes will trigger an interim reexamination. The family shall report these changes, in writing, within ten (10) calendar days of their occurrence.

- A. A member has been added to the family through birth or adoption or court-awarded custody.
- B. A household member is leaving or has left the family unit.

In order to add a household member other than through birth, adoption, or court-awarded custody, the family must request that the new member be added to the lease. Before adding the new member to the lease, the individual must complete an application form stating their income, assets, and all other information required of an applicant. The individual must provide his/her Social Security number and must verify his/her citizenship/eligible immigrant status. (His/her housing will not be delayed due to delays in verifying eligible immigrant status other than delays caused by the family.) The new family member will go through the screening process for applicants. The PHA will determine the eligibility of the individual before adding them to the lease. If the individual is found to be ineligible or does not pass the screening criteria, s/he will be advised in writing and given the opportunity for an informal review. If s/he is found to be eligible and does pass the screening criteria, his/her name will be added to the lease. At the same time, if the family's rent is being determined under the income method, the family's annual income will be recalculated taking into account the circumstances of the new family member. The effective date of the new rent will be in accordance with Section 15.8.

A resident requesting a live-in-aide will be required to provide verification of the need for a live-in-aide. In addition, before approval of the live-in-aide, the individual (live-in-aide) must complete an application form for purposes of determining citizenship/eligible immigrant status and the live-in-aide will go through the screening process for applicants. The PHA will determine the eligibility of the live-in-aide before approval can be granted. If the individual is found to be ineligible or does not pass the screening criteria, the resident will be advised in writing and given the opportunity for an informal review. Under no

circumstances will the live-in-aide be added to the lease or be considered the last remaining member of a tenant family.

**15.7 SPECIAL REEXAMINATIONS**

**PHA Policy**

*If a family's income is too unstable to project for twelve (12) months, or have a temporary decrease in income, the PHA may schedule special reexaminations every **one hundred and eighty (180)** calendar days until the income stabilizes and an annual income can be determined.*

*If a family has no income (0 renters), the PHA will schedule special reexaminations every thirty (30) calendar days.*

**15.8 EFFECTIVE DATE OF RENT CHANGES DUE TO INTERIM OR SPECIAL REEXAMINATIONS**

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

All Cost of Living Adjustments (COLA) increases will become effective on the month of the reexamination.

## **16.0 UNIT TRANSFERS**

### **16.1 OBJECTIVES OF THE TRANSFER POLICY**

The objectives of the Transfer Policy include the following:

- A. To address emergency situations.
- B. To fully utilize available housing resources while avoiding overcrowding by ensuring that each family occupies the appropriate size unit.
- C. To facilitate a relocation when required for modernization or other management purposes.
- D. To facilitate relocation of families with inadequate housing accommodations.
- E. To provide an incentive for families to assist in meeting the PHA's deconcentration goal, if appropriate.
- F. To eliminate vacancy loss and other expenses due to unnecessary transfers.

### **16.2 CATEGORIES OF TRANSFERS**

Category A: Emergency transfers. These transfers are necessary when conditions pose an immediate threat to the life, health, or safety of a family or one of its members. Such situations may involve defects of the unit or the building in which it is located, the health condition of a family member, a hate crime, the safety of witnesses to a crime, or a law enforcement matter particular to the neighborhood.

Category B: Immediate administrative transfers. These transfers are necessary in order to permit a family needing accessible features to move to a unit with such a feature or to enable modernization, revitalization, disposition or demolition work to proceed. When an accessible unit becomes available, it shall first be offered to families needing it who reside on the site that has the vacancy, then to other public housing residents needing the special accessibility features, and finally to applicants on the waiting list who need the accessibility features.

Category C: Regular administrative transfers. These transfers are made to offer incentives to families willing to help meet certain PHA occupancy goals, to correct occupancy standards where the unit size is inappropriate for the size and composition of the family, to allow for non-emergency but medically advisable transfers, and other transfers approved by the PHA when a transfer is the only or best way of solving a serious problem.

### **16.3 DOCUMENTATION**

When the transfer is at the request of the family, the family may be required to provide third party verification of the need for the transfer.

### **16.4 INCENTIVE TRANSFERS**

Families living in multifamily developments have the opportunity to transfer to scattered-site housing. Families approved for such transfers will meet the following eligibility criteria:

- A. Have been a tenant for three years;
- B. For a minimum of one year, at least one adult family member is enrolled in an economic self-sufficiency program or is working at least thirty-five (35) hours per week, the adult family members are 62 years of age or older or are disabled or are the primary care givers to others with disabilities;

- C. Adult members who are required to perform community service have been current in these responsibilities since the inception of the requirement or for one year whichever is less;
- D. The family is current in the payment of all charges owed to the PHA and has not paid late rent for at least one year;
- E. The family passes a current housekeeping inspection and does not have any record of housekeeping problems during the last year;
- F. The family has not materially violated the lease over the past two years by disturbing the peaceful enjoyment of their neighbors, by engaging in criminal or drug-related activity, or by threatening the health or safety of tenants or Housing Authority staff;
- G. Participates in a series of classes conducted by the PHA on basic home and yard care.

## **16.5 PROCESSING TRANSFERS**

Transfers on the waiting list will be sorted by the above categories and within each category by date and time.

Transfers in category A and B will be housed ahead of any other families, including those on the applicant waiting list. Transfers in category A will be housed ahead of transfers in category B.

Transfers in category C will be housed after category B transfers.

Residents in good standing with no outstanding obligations to the PHA will be transferred first.

Upon offer and acceptance of a unit, the family will execute all lease up documents and pay any rent and/or security deposit within two (2) business days of being informed the unit is ready to rent. The family will be allowed seven (7) calendar days to complete a transfer. The family will be responsible for paying rent at the old unit as well as the new unit for any period of time they have possession of both. The prorated rent and other charges (key deposit and any additional security deposit owing) must be paid at the time of lease execution.

The following is the policy for the rejection of an offer to transfer:

- A. If the family rejects with good cause any unit offered, they will not lose their place on the transfer waiting list.
- B. If the transfer is being made at the request of the PHA and the family rejects two offers without good cause, the PHA will take action to terminate their tenancy. If the reason for the transfer is that the current unit is too small to meet the PHA's optimum occupancy standards, the family may request in writing to stay in the unit without being transferred so long as their occupancy will not exceed two people per living/sleeping room.
- C. If the transfer is being made at the family's request and the rejected offer provides deconcentration incentives, the family will maintain their place on the transfer list and will not otherwise be penalized.
- D. If the transfer is being made at the family's request, the family may, without good cause and without penalty, turn down one offer that does not include deconcentration incentives. After turning down a second such offer without good cause, the family's name will be removed from the transfer list.



## **16.6 COST OF THE FAMILY'S MOVE**

The cost of the transfer generally will be borne by the family in the following circumstances:

- A. When the transfer is made at the request of the family or by others on behalf of the family (i.e., by the police);
- B. When the transfer is needed to move the family to an appropriately sized unit, either larger or smaller; or
- C. When the transfer is needed because action or inaction by the family caused the unit to be unsafe or uninhabitable.

The cost of the transfer will be borne by the PHA in the following circumstances:

- A. When the transfer is needed in order to carry out modernization, disposition or demolition activities;
- B. When the transfer is necessitated because a family with disabilities needs the accessible unit into which the transferring family moved (The family without disabilities signed a statement to this effect prior to accepting the accessible unit); or
- C. When action or inaction by the PHA has caused the unit to be unsafe or inhabitable.

The responsibility for moving costs in other circumstances will be determined on a case by case basis.

## **16.7 TENANTS IN GOOD STANDING**

When the transfer is at the request of the family, it will not be approved unless the family is in good standing with the PHA. This means the family must be in compliance with its lease, current in all payments to the Housing Authority, and must pass a housekeeping inspection.

## **16.8 TRANSFER REQUESTS**

A tenant may request a transfer at any time by completing a transfer request form. In considering the request, the PHA may request a meeting with the tenant to better understand the need for transfer and to explore possible alternatives. The PHA will review the request in a timely manner and if a meeting is desired, it shall contact the tenant within ten (10) business days of receipt of the request to schedule a meeting.

The PHA will grant or deny the transfer request in writing within ten (10) business days of receiving the request or holding the meeting, whichever is later.

If the transfer is approved, the family's name will be added to the transfer waiting list.

If the transfer is denied, the denial letter will advise the family of their right to utilize the Grievance Procedure.

## **16.9 RIGHT OF THE PHA IN TRANSFER POLICY**

The provisions listed above are to be used as a guide to ensure fair and impartial means of assigning units for transfers. It is not intended that this policy will create a property right or any other type of right for a tenant to transfer or refuse to transfer.

## **17.0 INSPECTIONS**

An authorized representative of the PHA and an adult family member will inspect the premises prior to commencement of occupancy. A written statement of the condition of the premises will be made, all equipment will be provided, and the statement will be signed by both parties with a copy retained in the PHA file and a copy given to the family member. An authorized PHA representative will inspect the premises at the time the resident vacates and will furnish a statement of any charges to be made. The resident's security deposit will be used to offset against any PHA damages to the unit.

The PHA will document, at its discretion, either with photographs or video tape, all inspections. The photographs or video tapes will not include any persons residing in the dwelling unit and will be used solely to document the condition of the dwelling unit at the time of inspection.

### **17.1 MOVE-IN INSPECTIONS**

The PHA and an adult member of the family will inspect the unit prior to signing the lease. Both parties will sign a written statement of the condition of the unit. A copy of the signed inspection will be given to the family and the original will be placed in the tenant file.

### **17.2 ANNUAL INSPECTIONS**

The PHA will inspect each public housing unit annually to ensure that each unit meets the PHA's housing standards. Work orders will be submitted and completed to correct any deficiencies.

### **17.3 PREVENTATIVE MAINTENANCE INSPECTIONS**

This is generally conducted along with the annual inspection. This inspection is intended to keep items in good repair. It checks weatherization; checks the condition of the smoke detectors, water heaters, furnaces, automatic thermostats and water temperatures; checks for leaks; and provides an opportunity to change furnace filters and provide other minor servicing that extends the life of the unit and its equipment.

### **17.4 SPECIAL INSPECTIONS**

A special inspection may be scheduled to enable HUD or others to inspect a sample of the housing stock maintained by the PHA.

### **17.5 HOUSEKEEPING INSPECTIONS**

Generally, at the time of annual reexamination, or at other times as necessary, the PHA will conduct a housekeeping inspection to ensure the family is maintaining the unit in a safe and sanitary condition.

### **17.6 NOTICE OF INSPECTION**

For inspections defined as annual inspections, preventative maintenance inspections, special inspections, and housekeeping inspections, the PHA will give the tenant at least two (2) calendar days written notice.

### **17.7 EMERGENCY INSPECTIONS**

If any employee and/or agent of the PHA has reason to believe that an emergency exists within the housing unit, the unit can be entered without notice. The person(s) who enters the unit will leave a written notice to the resident that indicates the date and time the unit was entered and the reason why it was necessary to enter the unit.

### **17.8 PRE-MOVE-OUT INSPECTIONS**

When a tenant gives notice that they intend to move, the PHA will offer to schedule a pre-move-out inspection with the family. The inspection allows the PHA to help the family identify any problems which, if left uncorrected, could lead to vacate charges. This inspection is a courtesy to the family and has been found to be helpful both in reducing costs to the family and in enabling the PHA to ready units more quickly for the future occupants.

#### **17.9 MOVE-OUT INSPECTIONS**

The PHA conducts the move-out inspection after the tenant vacates to assess the condition of the unit and determine responsibility for any needed repairs. When possible, the tenant is notified of the inspection and is encouraged to be present. This inspection becomes the basis for any claims that may be assessed against the security deposit.

## 18.0 PET POLICY

### 18.1 EXCLUSIONS

This policy does not apply to service animals, support animals, assistance animals, or therapy animals that are used to assist persons with disabilities. These animals are allowed in all public housing facilities with no restrictions other than those imposed on all tenants to maintain their units and associated facilities in a decent, safe, and sanitary manner and to refrain from disturbing their neighbors. These animals can also be restricted if they fall into the category of an animal that is potentially harmful to the health and safety of others or they are of a species trained as attack animals or known to have aggressive temperaments or if they would violate another resident's or staff members reasonable accommodation. The person requesting this exclusion to the Pet Policy of this housing authority must have a disability and the accommodation must be necessary to afford the person with a disability an equal opportunity to use and enjoy a dwelling.

To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the person's disability. Portsmouth Housing Authority will verify the existence of the disability, and the need for the accommodation— if either is not readily apparent. Accordingly, persons who are seeking a reasonable accommodation for an emotional support animal will be required to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides support that alleviates at least one of the identified symptoms or effects of the existing disability.

In addition, the Housing Authority is not required to provide any reasonable accommodation that would pose a direct threat to the health or safety of others. Thus, if the particular animal requested by the individual with a disability has a history of dangerous behavior, we will not accept the animal into our housing. Moreover, we are not required to make a reasonable accommodation if the presence of the assistance animal would (1) result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by a reasonable accommodation; (2) pose an undue financial and administrative burden; or (3) fundamentally alter the nature of the provider's operations.

### 18.2 PETS IN PUBLIC HOUSING

- A. **Pets in Senior Buildings:** Residents living in developments or buildings designated for use by elderly and disabled families and in any development or building for which elderly or disabled families are given preference may, with prior PHA approval, keep birds, fish, cats, or dogs in their units.
- B. **Pets in Family Developments:** Residents of family developments may not keep dogs in their units. Other than dogs, the same rules apply to family developments as for developments for use by the elderly and disabled.

### 18.3 APPROVAL

- A. **Residents must register the pet and have prior approval** of the PHA before moving a pet into their unit. Residents must request approval and furnish all information and documentation required by this Section before the PHA will approve the request. For dogs and cats, at the first registration, a licensed veterinarian's certification must be filed, certifying that the pet has been spayed or neutered.
- B. **All pets must be** registered with the PHA before bringing them onto the development premises. Initial registration will not be allowed unless the family is in good standing with the PHA. For these purposes, this means that for the previous eighteen months, the family must have passed all housekeeping inspections. Thereafter, the registration must be fully updated each year at the resident's annual reexamination. For residents who do not need to reexamine each year, the registration must be fully updated on or before January 31.

- C. **Full registration requires the following:**
1. An original certification from a licensed veterinarian that the pet, if required, is fully inoculated according to State and local law;
  2. An original license of any pet required to be licensed under local or state law;
  3. A signed agreement exempting and holding harmless, the PHA.
  4. For dogs and cats, proof of insurance against personal injury caused by the animal.
- D. **The PHA, in its discretion,** will refuse registration of any animal deemed to be potentially harmful to the health or safety of others.

#### 18.4 TYPES AND NUMBER OF PETS

The PHA will allow only **domesticated** dogs, cats, birds, and fish in units. **Dogs are not allowed in family developments.**

- A. **Dogs and cats** are limited to **one per unit**, with a maximum weight of twenty pounds. Species trained as attack animals or known to have aggressive temperaments will not be allowed.
- B. **Birds** are limited to **one per unit** or in the case of small species that can live in health in the same cage, to two per unit.
- C. **Fish** are limited to **one tank per unit**. The maximum capacity of the tank cannot exceed **five gallons**.

#### 18.5 INOCULATIONS

In order to be registered, pets must be appropriately inoculated against rabies, distemper and other conditions prescribed by state and/or local ordinances. They must comply with all other state and local public health, animal control, and anti-cruelty laws including any licensing requirements. A certification signed by a licensed veterinarian or state or local official shall be annually filed with the PHA to attest to the inoculations.

#### 18.6 RESERVED

#### 18.7 FINANCIAL OBLIGATION OF RESIDENTS

Any resident who owns or keeps a pet in their dwelling unit will be required to pay for any repairs or replacement and cleaning for damages caused by the pet. The treatment of any pet-related insect infestation or odors in the pet owner's unit will be the financial responsibility of the pet owner.

#### 18.8 NUISANCE OR THREAT TO HEALTH OR SAFETY

- A. **The pet and its living quarters must be maintained** in a manner to prevent odors and any other unsanitary conditions in the owner's unit, building and development grounds. Toilets may not be used for waste disposal.
- B. **Pet owners may not allow** their pet to urinate or defecate anywhere on PHA grounds or property. They must curb their pet away from the development site. Should the pet have an accident and defecate or urinate on PHA grounds and property, owners must clean and remove all urine or fecal matter. If a resident fails to clean up after their animal, they will be assessed a waste removal charge of \$25.00 for each occurrence.

- C. **Repeated offenses** will result in eviction or removal of the pet.
- D. **Pets must not be allowed** to make noise or otherwise disturb the quiet enjoyment of other residents.
- E. **Residents** of the Woodbury Manor, State Street and Pleasant Street developments must place all waste in resident-supplied rubbish containers with a tight, secure cover. At all other developments, pet waste, feces, urine, litter box contents, bird cage contents, aquarium waste, etc. must be disposed of in dumpsters where available. It may not be left for rubbish collection in rubbish containers or bags. It may not be left in rubbish closets or put down rubbish chutes. Violations of this rule will be grounds for eviction or removal of the pet.
- F. **Aggressive behavior of any kind** by pets will not be tolerated. Upon the first instance of aggressive behavior, the pet must be removed.

### 18.9 DESIGNATION OF PET AREAS

Pets must be kept in the owner's apartment or **held** on a leash by the responsible party at all times when outside the unit (no outdoor cages may be constructed).

With the exception of assistive animals no pets shall be allowed in the community room, community room kitchen, laundry rooms, public bathrooms, lobby, beauty shop, hallways or office in any of PHA's sites.

To accommodate residents who have medically certified allergic or phobic reactions to dogs, cats, or other pets, those pets may be barred from certain wings (or floors) in PHA's development(s)/building(s). This shall be implemented based on demand for this service.

### 18.10 MISCELLANEOUS RULES

Pets may not be left unattended in a dwelling unit for over twelve (12) hours. If the pet is left unattended and no arrangements have been made for its care, the PHA will have the right to enter the premises and take the uncared for pet to be boarded at a local animal care facility at the total expense of the resident. **Residents must board** their pets away from the development when they leave their unit for a day or more.

Pet bedding shall not be washed in any common laundry facilities.

Residents must take appropriate actions to protect their pets from fleas and ticks.

All dogs must wear a tag bearing the resident's name and phone number and the date of the latest rabies inoculation.

Pets cannot be kept, bred or used for any commercial purpose.

Residents owning cats shall maintain waterproof litter boxes for cat waste. Refuse from litter boxes shall not accumulate or become unsightly or unsanitary. Litter shall be disposed of in an appropriate manner.

A pet owner shall physically control or confine his/her pet during the times when PHA employees, agents of the PHA or others must enter the pet owner's apartment to conduct business, provide services, enforce lease terms, etc. **All PHA staff** have the right to refuse to enter a unit where there is an unrestrained or nuisance animal. A refusal to restrain an animal that prevents PHA staff from performing work is grounds for eviction.

If a pet causes harm to any person, the pet's owner shall be required to permanently remove the pet from the PHA's property within 24 hours of written notice from the PHA. The pet owner may also be subject to termination of his/her dwelling lease.

A pet owner who violates any other conditions of this policy may be required to remove his/her pet from the development within 10 calendar days of written notice from the PHA. The pet owner may also be subject to termination of his/her dwelling lease.

The PHA's Grievance Procedure shall be applicable to all individual grievances or disputes arising out of violations or alleged violations of this policy.

#### **18.11 VISITING PETS**

**Visitors with pets are not allowed without the PHA's permission.**

#### **18.12 REMOVAL OF PETS**

The PHA, or an appropriate community authority, shall require the removal of any pet from a development if the pet's conduct or condition is determined to be a nuisance or threat to the health or safety of other occupants of the project or of other persons in the community where the development is located.

In the event of illness or death of the pet owner, or in the case of an emergency which would prevent the pet owner from properly caring for the pet, the PHA has permission to call the emergency caregiver designated by the resident or the local Pet Law Enforcement Agency to take the pet and care for it until family or friends would claim the pet and assume responsibility for it. Any expenses incurred will be the responsibility of the pet owner.

## **19.0 REPAYMENT AGREEMENTS**

When a resident owes the PHA retroactive rent or back charges and is unable to pay the balance by the due date, the resident may request that the PHA allow them to enter into a Repayment Agreement. The PHA has the sole discretion of whether to accept such an agreement. All Repayment Agreements must assure that the full payment is made within a period not to exceed twelve (12) months. If feasible, the total amount paid will not exceed 40% of monthly adjusted income. All Repayment Agreements must be in writing and signed by both parties. They must include the following elements:

- A. Reference to the paragraphs in the Public Housing lease whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
- B. The monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to the PHA.
- C. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
- D. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

Refusal to enter into a Repayment Agreement for monies owed will subject the family to eviction procedures.



## **20.0 TERMINATION**

### **20.1 TERMINATION BY TENANT**

The tenant may terminate the lease at any time upon submitting a 30-day written notice. If the tenant vacates prior to the end of the thirty (30) calendar days, they will be responsible for rent through the end of the notice period or until the unit is re-rented, whichever occurs first.

### **20.2 TERMINATION BY THE HOUSING AUTHORITY**

Twelve months after the PHA has implemented the mandated Community Service Requirement, it will not renew the lease of any non-exempt family that is not in compliance with the Community Service Requirement or approved Agreement to Cure. If they do not voluntarily leave the property, eviction proceedings will begin.

In the event of an inconsistency between the Screening and Eviction for Drug Abuse and other Criminal Activity (SEDACA) Policy and other provisions of this ACOP, the more stringent will apply.

The PHA will terminate the lease for serious or repeated violations of material lease terms. Such violations include, but are not limited to, the following:

- A. Nonpayment of rent or other charges;
- B. A history of late rental payments;
- C. Failure to provide timely and accurate information regarding family composition, income circumstances, or other information related to eligibility or rent;
- D. Failure to allow inspection of the unit;
- E. Failure to maintain the unit in a safe and sanitary manner;
- F. Assignment or subletting of the premises;
- G. Use of the premises for purposes other than as a dwelling unit (other than for housing authority approved resident businesses);
- H. Destruction of property;
- I. Acts of destruction, defacement, or removal of any part of the premises or failure to cause guests to refrain from such acts;
- J. Any violent or drug-related criminal activity on or off the premises, not just on or near the premises. This includes any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control. This includes but is not limited to the manufacture of methamphetamine on the premises of the PHA or on the premises of any other federally assisted housing;
- K. Non-compliance with Non-Citizen Rule requirements;
- L. (1) Allowing a guest to remain in the assisted unit longer than 14 consecutive days or a total of 14 cumulative calendar days during any 12 month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, who are not included as a family member because they live outside of the assisted

household more than 50 percent of the time, are not subject to the time limitations of guests as described above. This provision will apply only when the PHA has been provided with and approved of proof of joint custody and/or visitation privileges.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure that is expected to last 40 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.

(2) Allowing any individuals who have been barred from PHA property to be on PHA premises or in a PHA dwelling unit. The names of persons barred from PHA properties are posted in all PHA site offices.

- M. Any activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the PHA by the resident, household members, or guests of the resident or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy;
- N. Alcohol abuse that the PHA determines interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- O. Failure to perform required community service or be exempted therefrom;
- P. The PHA will take immediate action to evict any household that includes an individual who is subject to a lifetime registration requirement under a State sex offender registration program;
- Q. Determination that a household member is illegally using a drug or when the PHA 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;
- R. Criminal activity as shown by a criminal record;
- S. Disconnecting a smoke detector in any manner, removing any batteries from a smoke detector or failing to notify the Housing Authority if the smoke detector is inoperable for any reason; and
- T. Other good cause.

If an individual or family's lease is terminated for criminal activity, the PHA will notify the local post office serving the development that the individual or family no longer lives there.

***THE PHA HAS A ZERO TOLERANCE FOR ILLEGAL USE, SALE OR DISTRIBUTION OF DRUGS AND OTHER RELATED CRIMINAL ACTIVITY.***

In deciding to terminate a tenancy for criminal activity or alcohol abuse, the PHA will consider circumstances relevant to the particular case such as the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity, and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

The PHA may require a leaseholder 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 an action or failure to act that warrants the termination.

Further, in deciding to terminate a tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of

alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member:

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

For this purpose, PHA may require the leaseholder to submit evidence of one of the above 3 statements.

In deciding whether to exercise their discretion to terminate an individual or household that has engaged in criminal activity, the Portsmouth Housing Authority will consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to: the seriousness of the offending action; the effect that eviction of the entire household would have on family members not involved in the criminal activity; and the extent to which the leaseholder has taken all reasonable steps to prevent or mitigate the criminal activity.

An arrest record, alone, will not serve as sufficient evidence of criminal activity that can support an adverse termination, or eviction decision. Before the Portsmouth Housing Authority evicts an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. The Portsmouth Housing Authority can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

If the Portsmouth Housing Authority proposes to terminate assistance on the basis of a criminal record, the Housing Authority will notify the household of the proposed action to be based on the information and will provide the subject of the record and the tenant with a copy of the criminal record before the Housing Authority grievance hearing or court trial concerning the termination of tenancy or eviction. The tenant will be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial. The family will have ten (10) business days to dispute the accuracy and relevance of the record in writing. If the Housing Authority does not receive the dispute within the allotted time, the family will be terminated.

When residents are notified of an eviction they will also be given a notice on their rights and responsibilities under the Violence Against Women Act (VAWA). A copy of the HUD 50066 form (Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) shall also be provided with the notice.

## **20.2A VAWA PROTECTIONS**

Under the Violence Against Women Act (VAWA), public housing residents have the following specific protections, which will be observed by the Portsmouth Housing Authority:

An incident or incidents or actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not in itself be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

The Housing Authority may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or affiliated individuals without terminating the assistance or evicting victimized lawful occupants. This is also true even if the household member or affiliated individual is not a signatory to the lease. Under VAWA, the Housing Authority is granted the authority to bifurcate the lease.

The Housing Authority will honor court orders regarding the rights of access or control of the property.

There is no limitation on the ability of the Housing Authority to evict for other good cause unrelated to the incident or incidents of domestic violence, dating violence, sexual assault, or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on the Housing Authority evicting if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) tenancy is not terminated.” An actual and imminent threat consists of a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

Portsmouth Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority. Types of acceptable verifications are outlined below, and must be submitted within 14 business days after receipt of the Housing Authority’s written request for verification.

When residents are notified of an eviction they will also be given a notice on their rights and responsibilities under the Violence Against Women Act (VAWA). A copy of the HUD 50066 form (Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) shall also be provided with the notice.

#### **20.2B VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING**

The Portsmouth Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority.

- A. **Requirement for Verification.** The law allows, but does not require, the Housing Authority to verify that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. The Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence or stalking may be accomplished in one of the following three ways:

1. **HUD-approved form (HUD-50066)** - By providing to the Housing Authority a written certification, on the form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence, sexual assault or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed

certification must include the name of the perpetrator, only if the name of the perpetrator is safe to provide and is known to the victim.

2. **Other documentation** - by providing to the Housing Authority documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence, sexual assault or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
  3. **Police or court record** – by providing to the Housing Authority a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.
- B. **Time allowed to provide verification/ failure to provide.** An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, and who is requested by the Housing Authority to provide verification, must provide such verification within 14 business days after receipt of the written request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action. The submission of false information may be the basis for the termination of assistance or for eviction.
- C. **Managing conflicting documentation.** In cases where the Housing Authority receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the Housing Authority may determine which is the true victim by requiring third-party documentation as described in 24 CFR 5.2007 and in accordance with any HUD guidance as to how such determinations will be made. The Housing Authority shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household.

### **20.2C CONFIDENTIALITY**

All information provided under VAWA including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking, shall be retained in confidence and shall not be entered into any shared database or provided to any related entity except to the extent that the disclosure is:

- A. Requested or consented to by the individual in writing;
- B. Required for used in an eviction proceeding; or
- C. Otherwise required by applicable law.

Portsmouth Housing Authority shall provide its tenants notice of their rights under VAWA including their right to confidentiality and the limits thereof.

### **20.3 TERMINATIONS FOR CRIMINAL ACTIVITY**

- A. The term “due process determination” means a determination by HUD that law covering the PHA’s jurisdiction requires that residents must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.

- B. HUD has issued a due process determination that the law of New Hampshire requires that residents be given the opportunity for a hearing in a court that provides the basic elements of due process before eviction from a dwelling unit. The PHA has therefore determined that its Grievance Procedure shall not be applicable to any termination of tenancy or eviction for:
1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the PHA's public housing premises by other residents or employees of the Housing Authority;
  2. Any violent or drug-related criminal activity on or off such premises; or
  3. Any activity resulting in a felony conviction.
- C. The PHA will not evict, or remove assistance from certain persons living in public housing if the asserted grounds for such action is an instance of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in Section 3 of the United States Housing Act of 1937 as amended by the Violence Against Women and Justice Department Reauthorization Act 2005.

#### **20.4 ABANDONMENT**

The PHA will consider a unit to be abandoned when a resident has both fallen behind in rent **AND** has clearly indicated by words or actions an intention not to continue living in the unit.

When a unit has been abandoned, a PHA representative may enter the unit and remove any abandoned property. It will be stored in a reasonably secure place **for twenty-eight (28) days then disposed of**. A notice will be mailed to the resident stating where the property is being stored. If the PHA does not have a new address for the resident, the notice will be mailed to the unit address so it can be forwarded by the post office.

Within *thirty (30)* calendar days of learning of an abandonment, the PHA will either return the deposit or provide a statement of why the deposit is being kept.

#### **20.5 RETURN OF SECURITY DEPOSIT**

After a family moves out, the PHA will return the security deposit within *thirty (30)* calendar days in accordance with State law or give the family a written statement of why all or part of the security deposit is being kept. The rental unit must be restored to the same conditions as when the family moved in, except for normal wear and tear. Deposits will not be used to cover normal wear and tear or damage that existed when the family moved in.

If State law requires the payment of interest on security deposits, it shall be complied with.

The PHA will be considered in compliance with the above if the required payment, statement, or both, are deposited in the U.S. mail with first class postage paid within thirty (30) calendar days.

#### **20.6 THE EIV'S DECEASED TENANTS REPORT**

The Housing Authority shall generate the EIV's Deceased Tenants Report monthly shortly before either the end of the month or creating rent statements to see if the system flags deceased residents. The Housing Authority shall review the report and follow up with any listed families immediately and take any necessary corrective action as set forth in PIH Notice 2010-50 or successor publications.

If it is a single member household, the Housing Authority shall immediately visit the unit and determine if it is vacant or occupied by an unauthorized person. If improperly occupied, the Housing Authority shall

take immediate eviction actions under state law. If the property is occupied by a live-in-aide to the deceased person, the aide must move out immediately and is not eligible for continued occupancy or rental assistance.

## **21.0 SUPPORT FOR OUR ARMED FORCES**

A major and important component of our armed forces is the part-time military personnel who serve in various Reserve and National Guard units. The PHA is very supportive of these men and women. An unfortunate fact of service in both the Reserves and National Guard is that from time to time their personnel are activated to full-time status and asked to serve our country in a variety of ways and circumstances. Whenever the Federal Government activates Reserve and/or National Guard personnel, the PHA wants to support these brave warriors in the following manners:

- A. If a family finds it necessary for another adult to temporarily move into a unit solely to serve as a temporary guardian for children residing in the unit, the income received by the temporary guardian will not be counted in determining family income.
- B. Although typically a criminal background check is required before anyone can move into a public housing unit, this requirement will be waived for a temporary guardian. Instead, the background check will occur after the person moves in. If the results of the check dictate that the person is ineligible for public housing, the family shall be given a reasonable time to find a replacement temporary guardian.
- C. Recognizing that activation in the Reserves or National Guard can be very disruptive to a family's income, the PHA will expeditiously re-evaluate a resident's rent if requested to do so and will exercise reasonable restraint if the activated resident has trouble paying their rent.
- D. Typically a unit cannot be held by a family that is not residing in it as their primary residence. If all members of a military family are temporarily absent from the unit because a member of the family has been called to active duty, the family can retain control of the unit by paying the required rent and returning to the unit within 30 calendar days of the conclusion of the active duty service.



## **22.0 ANTI-FRAUD POLICY**

The PHA is fully committed to combating fraud in its public housing program. It defines fraud as a single act or pattern of actions that include false statements, the omission of information, or the concealment of a substantive fact made with the intention of deceiving or misleading the PHA and it results in the inappropriate expenditure of public housing funds and/or a violation of public housing requirements.

Although there are numerous types of fraud that may be committed, the two most common are the failure to fully report all sources of income and the failure to accurately report who is residing in the residence. The PHA shall aggressively attempt to prevent all cases of fraud.

When a fraudulent action is discovered, the PHA shall take action. It shall do one or more of the following things depending on circumstances and what it determines appropriate:

- A. Require the resident to immediately repay the amount in question;
- B. Require the resident to enter into a satisfactory repayment agreement as set forth in a previous section of this Policy;
- C. Terminate the resident's tenancy;
- D. Refer the case for criminal prosecution; or
- E. Take such other action as the PHA deems appropriate.

## 23.0 GRIEVANCE PROCEDURE

### Section 1: Purpose and Scope

This Grievance Procedure sets forth the requirements, standards, and criteria established to assure the residents of the Portsmouth Housing Authority (PHA) an opportunity for a Hearing if he or she disputes any Housing Authority action or failure to act involving the tenants' Lease or Housing Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status.

### Section 2: Applicability

- A. This Procedure applies to all grievances between individual tenants and the Housing Authority as defined in Section 3A below.
- B. This Grievance Procedure does not apply to:
  - 1. Disputes between tenants in which the Authority is not involved;
  - 2. Any changes in Authority policies and procedures. This Procedure is not intended as forum for initiating or negotiating policy changes between a tenant or group of tenants and the Authority.
  - 3. Class grievances.
  - 4. Termination of tenancy or eviction that involves:
    - a. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the PHA; OR
    - b. Any drug-related criminal activity on or off the premises;
    - c. The provisions of Subparts 4.a and 4.b, shall not be construed to prevent the PHA, in its discretion, from allowing access to the Grievance Procedure for terminations of tenancy involving such activities when the PHA determines that special circumstances exist.

### Section 3: Definitions

For the purpose of this Grievance Procedure, the following definitions apply:

- A. Grievance—Any disagreement which a tenant may have with respect to Housing Authority action or failure to act in accordance with the individual's Lease or Housing Authority regulations which adversely affects the individual tenant's rights, duties, welfare or status.
- B. Complaint—Any tenant whose grievance is presented to the Housing Authority in accordance with Sections 4 and 5 of this Procedure.
- C. Elements of Due Process—Legal proceedings carried out in a State or local court in which the following procedural safeguards are met:
  - 1. Adequate notice to the tenant of the grounds for terminating his or her Lease and for eviction.
  - 2. The right of the tenant to be represented by legal counsel.

3. The opportunity for the tenant to disagree with the evidence presented by the Authority including the right to confront and cross-examine witnesses and to present any affirmative legal or fair defense which the tenant may have.
  4. A decision on the merits.
- D. Hearing Officer— means an impartial person or persons selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training..
- E. Tenant—shall mean the adult person (or persons) other than a live-in aide who:
1. Resides in the unit, and who executed the Lease with the Authority as lessee of the dwelling unit, or, if no such person now resides in the unit;
  2. Resides in the unit, who is the remaining head of household of the tenant family residing in the dwelling unit.
- F. Resident Organization includes Resident Councils and Resident Management Corporations.
- G. Informal Settlement—Meeting held with complainant and the Executive Director , or designee of the Housing Authority in an attempt to resolve the grievance before going to a Formal Grievance Hearing.
- H. Summary of Discussion—Results of Informal Hearing giving detailed information in writing of the major points discussed in the Informal Hearing and the Authority’s decision on the complaint.
- I. Escrow—Money held by a third person as a good faith promise until a determination is made on what to do with the money.
- J. Waiver—To release a right or claim.
- K. Trial De Novo—The right to a new trial.

**Section 4: Informal Settlement of Grievance**

- A. Before a complaint can request a Hearing by a Hearing Officer the grievance must be submitted first for Informal Settlement.
- B. If the Complainant can show good cause why he or she has failed to follow the procedure for Informal Settlement to the Hearing Officer, the Informal Settlement may be waived by the Hearing Officer.
- C. Any grievance shall be personally presented, either orally or in writing, within ten (10) business days after the grievable event, to the Authority office or the property management office of the Development in which the complainant resides so that the grievance may be discussed informally and settled without a Hearing. This informal meeting must be held within ten (10) business days of receipt of the grievance.
- D. A Summary of Discussion shall be prepared within ten (10) business days of the informal meeting by the Authority and will be sent to the complainant by Registered or Certified Mail or given personally and a signed receipt obtained from Mail or given personally and a signed receipt obtained from the complainant. The Summary of Discussion will specify:
1. Names of the participants.
  2. Date of meeting.

3. Nature of proposed disposition of the complainant.
  4. Specific reason for proposed disposition of the complainant.
  5. Procedures by which a Hearing may be obtained if the complainant is not satisfied.
  6. That the complainant has five (5) business days from the date of the Summary of Discussion to request a Hearing.
- E. Those person(s) whose tenancy is terminated for reasons described in Section 2.B.4 shall be notified by the PHA that they are not eligible for the Grievance Procedure and must pursue legal action outside of the Housing Authority.

**Section 5: Procedure to Obtain a Hearing**

If the complainant is dissatisfied with the final results of the Informal Settlement, he or she must submit a written request to the Housing Authority or the Development office within five (5) business days after the receipt of the Summary of Discussion pursuant to Section 4. The written request for a Formal Hearing must specify the reason(s) for the grievance and the action or relief sought.

**Section 6: Failure to Request a Hearing**

If complainant does not request a Hearing within five (5) business days following the date of the Summary of Discussion:

- A. The Housing Authority’s disposition of the grievance under Section 4 as stated in the Summary of Discussion, becomes final and effective at the close of business on the fifth business day following the date of the Summary of Discussion.
- B. The failure to request a Hearing does not waive the complainant’s right to contest the Housing Authority’s decision in an appropriate judicial proceeding.

**Section 7: Hearing Involving Amount of Rent—Escrow Account**

Before a Hearing can be scheduled for a grievance involving the amount of rent as defined in the Lease, the complainant must:

- A. Pay the Authority the full amount of rent, calculated by the Authority, which was due on the first of the month preceding the month in which the grievance occurred; and
- B. Deposit this same amount of rent due into an escrow account every month until the complaint is resolved by the Hearing Officer’s decision.

If the complainant fails to comply with A and B above, the grievance process will be terminated. Failure to follow A and B above, however, does not waive any of the complainant’s rights to contest the Authority’s disposition of the grievance in an appropriate judicial proceeding.

The requirements described in Section 7 of this Grievance Procedure may be waived by the Housing Authority in extenuating circumstances.

**Section 8: Selection of a Hearing Officer**

- A. A grievance Hearing will be conducted by the Executive Director or designee who has been appointed by the Executive Director. The PHA employee (designee) will never be the person, or a subordinate of such person, who made or approved the Authority’s action under review.

- B. The Executive Director may consult the Resident Organization before the appointment of such Hearing Officer. Any comments or recommendations submitted by the Resident Organization shall be considered before the appointment.

### **Section 9: Schedule of Hearings**

If the complainant has met the Informal hearing requirements, properly requested a Formal Hearing, and made any necessary rental payments to the Authority or to an escrow account (when applicable), then the following will take place:

- A. A hearing will be promptly scheduled by the Hearing Officer.
- B. The Hearing will be scheduled for a time and place reasonably convenient to both the complainant and the Housing Authority.
- C. Written notification will be delivered to the complainant and appropriate Authority Officials, by Registered or Certified Mail, or delivered promptly with a signed receipt notice.
- D. The written notification will specify:
  - 1. Time of Hearing
  - 2. Place of Hearing
  - 3. Procedures governing the Hearing.

### **Section 10: Failure to Appear at the Hearing**

- A. If the complainant or the PHA fails to appear at the Hearing, the Hearing Officer may make a determination to postpone the Hearing for not more than five (5) business days or may make the determination that the non-appearing party has waived the right to a Hearing.
- B. The complainant and the Housing Authority will both be notified in writing of this determination by the Hearing Officer.
- C. Failure of the complainant to appear at the Hearing and a determination that he or she has waived the right to a Hearing does not waive the complainant's right to argue the case in an appropriate judicial proceeding.

### **Section 11: Procedure Governing Hearing**

- A. The Hearing shall be held before the Hearing Officer.
- B. The complainant shall be afforded a fair Hearing, which shall include:
  - 1. The opportunity to examine before the Hearing, any documents, including records, and regulations, that are directly relevant to the Hearing. The complainant shall be allowed to copy any documents to his or her own expense. Any document not made available to the complainant for examination may not be relied on by the Housing Authority during the Hearing;
  - 2. The right to be represented by counsel or other person chosen as his or her representative and have this person make statements on the complainants behalf;

3. The right to a private Hearing unless the complainant requests a Public Hearing;
  4. The right to present evidence and arguments in support of his or her complaint, to object to irrelevant evidence and request that such evidence be excluded, and to confront and cross-examine all witnesses on whose testimony or information the Authority or Development management relies; and
  5. A decision based solely and exclusively upon the facts presented at the hearing.
  6. The resident or housing authority can arrange in advance at their own expense for a transcript of the hearing. Anyone can purchase a copy of the transcript.
- C. The Hearing Officer may render a decision without holding the Hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.
  - D. At the Hearing, the complainant must first show that he or she is entitled to the relief sought after which the Authority must justify the action or failure to act as cited in the complaint.
  - E. The Hearing shall be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues mentioned in the complaint may be received without regard to admissibility under the rules of evidence applicable in judicial proceedings.
  - F. The Hearing Officer shall require the Authority, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion.
  - G. Failure to comply with the Hearing Officer's call for order may result in removal of the offending person from the proceedings, termination of the Hearing, or the entry of judgment by default against the offending person.
  - H. The Complainant or the Authority may arrange in advance, and at the expense of the party making the arrangement, for a transcript of the Hearing. Any interested person may purchase a copy of the transcript.
  - I. Accommodation of Persons with Disabilities
    1. The Housing Authority will take steps to insure that reasonable accommodation for persons with disabilities is provided so that participation in any Hearing is possible. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations or attendants.
    2. If the complainant is visually impaired any notice which is required under the Grievance Procedure, must be in an accessible format.

If the resident is a person with limited English proficiency, the Portsmouth Housing Authority will comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons."

#### **Section 12: Decision of Hearing Officer**

- A. The Hearing Officer will prepare a written decision, together with the reasons, within ten (10) business days after the Hearing.
- B. A copy of the decision will be sent to the complainant and the Authority at the same time. The Authority shall retain a copy of the decision in the tenant's folder.

- C. The Portsmouth Housing Authority will maintain a log of all hearing officer decisions. The log shall contain the date of the hearing, the general reason for the grievance hearing (i.e. failure to pay rent, community service noncompliance, etc.), and who the decision favored. The log shall be available to the hearing officer or a prospective complainant or the complainant's representative.
- D. The decision of the Hearing Officer will be binding on the Authority which will take all actions, or refrain from any actions, necessary to carry out the decision unless HUD's Housing Authority Representative determines at its next meeting, and promptly notifies the complainant of his/her determination, that;
  - 1. The grievance does not concern any act or failure to act on the part of the Authority involving the complainant's Lease or Authority regulations which adversely affect the complainant's rights, duties, welfare or status.
  - 2. The decision of the Hearing Officer is contrary to applicable Federal, State, and/or Local law, HUD regulations or requirements of the Annual Contributions Contract between the Department of Housing and Urban Development and the Housing Authority.
- E. A decision by the Hearing Officer or HUD's Housing Authority Representative in favor of the Authority, or which denies the relief requested by the complainant in whole or in part, does not waive or affect any rights the complainant may have to a trial de novo or judicial review in any judicial proceedings, which may be filed in the future.

## **24.0 PRIVACY**

The Portsmouth Housing Authority is strongly committed to protecting the privacy of people dealing with the agency to the greatest degree practical. There are numerous federal privacy laws, regulations, notices, and other requirements that the Housing Authority follows to the greatest degree practical. Details about these requirements are set forth in PIH Notice 2015-06 and any ensuing publications. The Housing Authority will educate all of its employees who have access to personally identifiable information (PII) and/or Sensitive Personally Identifiable Information about these requirements and expect them to appropriately manage and safeguard the information. Employees will also be trained on the proper disposition of said information.



## GLOSSARY

**50058 Form:** The HUD form that housing authorities are required to complete and electronically submit to HUD for each assisted household in public housing to record information used in the certification and recertification process and, at the option of the housing authority, for interim reexaminations. Housing Authorities must retain at a minimum the last three years of the form 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 date. Electronic retention of form HUD 50058 and HUD 50058-FSS and supporting documentation fulfills the record retention requirement.

**1937 Housing Act:** The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (24 CFR 5.100)

**Adjusted Annual Income:** The amount of household income, after deductions for specified allowances, on which tenant rent is based. (24 CFR 5.611)

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head. An emancipated minor is also considered an adult. In the anti-drug portions of this policy, it also refers to a minor who has been convicted of a crime as an adult under any Federal, State or tribal law.

**Affiliated Individual:** VAWA 2013 defines “affiliated individual,” with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly and disabled families, disability expenses, and childcare expenses for children under 13 years of age. Other allowance can be given at the discretion of the housing authority.

**Annual Contributions Contract (ACC):** The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program. (24 CFR 5.403)

**Annual Income:** All amounts, monetary or not, that:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- C. Are not specifically excluded from annual income.

Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access. (1937 Housing Act; 24 CFR 5.609)

**Applicant (applicant family):** A person or family that has applied for admission to a program but is not yet a participant in the program. (24 CFR 5.403)

**As-Paid States:** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs. Currently, the four as-paid States are New Hampshire, New York, Oregon, and Vermont.

**Assets:** The value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles are not counted as assets. (Also see "net family assets.")

**Asset Income:** Income received from assets held by family members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income. (See "imputed asset income" below.)

**Assistance applicant:** A family or individual that seeks admission to the public housing program.

**Bifurcate:** with respect to a public housing or Section 8 lease, it means 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.

**Business Days:** Days the housing authority is open for business.

**Ceiling Rent:** Maximum rent allowed for some units in public housing developments under the income method of calculating rent.

**Certification:** The examination of a household's income, expenses, and family composition to determine the family's eligibility for program participation and to calculate the family's share of rent.

**Child:** For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age. (24 CFR 5.504(b))

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

**Citizen:** A citizen or national of the United States. (24 CFR 5.504(b))

**Community service:** 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.

**Consent Form:** Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits. (24 CFR 5.214)

**Covered Families:** Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

**Covered Person:** For purposes of the anti-drug provisions of this policy, a covered person is a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

**Currently engaging in:** With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current. Arrests alone are not sufficient evidence of criminal activity.

**Dating Violence:** Violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a

consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

**Decent, Safe, and Sanitary:** Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

**Department:** The Department of Housing and Urban Development. (24 CFR 5.100)

**Dependent:** A member of the family (except foster children and foster adults), other than the family head or spouse, who is under 18 years of age or is a person with a disability or is a full-time student. (24 CFR 5.603(d))

**Dependent Allowance:** An amount, equal to \$480 multiplied by the number of dependents, that is deducted from the household's annual income in determining adjusted annual income.

**Disability Assistance Expenses:** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source. (24 CFR 5.603(d))

**Disability Assistance Expense Allowance:** In determining adjusted annual income, the amount of disability assistance expenses deducted from annual income for families with a disabled household member.

**Disabled Family:** A family whose head (including co-head), spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides. (24 CFR 5.403(b)) (Also see "person with disabilities.")

**Disabled Person:** See "person with disabilities."

**Displaced Family:** A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. (24 CFR 5.403(b))

**Displaced Person:** A person displaced by governmental action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. [1937 Act]

**Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim share a child in common, by a person who is cohabitated with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that persons acts under the domestic or family violence laws of the jurisdiction.

**Drug:** means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Drug-Related Criminal Activity:** 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.

**Economic self-sufficiency program:** Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly Family:** A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides. (24 CFR 5.403)

**Elderly/Disabled Family Allowance:** For elderly families, an allowance of \$400 is deducted from the household's annual income in determining adjusted annual income.

**Elderly Person:** A person who is at least 62 years of age. (1937 Housing Act)

**Employment:** Employment for admission preference purposes is defined as:

Employment must be current, be at least 20 hours per week and have lasted a minimum of either eighteen consecutive months preceeding the family's selection from the Waiting list or continuously from that time at which such claim of preference was made, whichever is greater, and such employment can be verified by the PHA by employer's third part certification(s).

The employment part of this preference is also extended equally to (1) a family if the head, spouse, or sole member is 62 years of age or older or who is receiving social security or Supplemental Security Income disability benefits or any other payments based on the individual's inability to work.

**Extremely low-income families:** A very low-income family whose incomes does not exceed the higher of 30% of the median income for the area (as determined by HUD with adjustments for smaller and larger families) or the Federal poverty level, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Fair Housing Act:** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.). (24 CFR 5.100)

**Family** includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to:
  - A. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - B. An elderly family (including co-head);
  - C. A near-elderly family (including co-head);
  - D. A disabled family (including co-head);
  - E. A displaced family;
  - F. The remaining member of a tenant family; and
  - G. A single person who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family. (24 CFR 5.403)

**Family Members:** All members of the household other than live-in aides, foster children, and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the lease.

**Family Self-Sufficiency Program (FSS Program):** The program established by a housing authority to promote self-sufficiency among participating families, including the coordination of supportive services. (24 CFR 984.103(b))

**Flat Rent:** A rent amount the family may choose to pay in lieu of having their rent determined under the income method. The flat rent is established by the housing authority based on a HUD mandate that it be set at not less than 80% of the FMR, adjusted for tenant-paid utilities. PHAs have the flexibility to conduct reexaminations of family income once every three years instead of annually for families that choose to pay the flat rent. The flat rent amount a family pays is not locked in for the three-year period. Instead, the PHA must revise the flat rent amount from year to year based on the findings of the PHA's rent reasonableness analysis and changes to the FMR.

**Full-Time Student:** A person who is attending school or vocational training on a full-time basis as defined by the institution.

**Gender Identity:** Actual or perceived gender-related characteristics.

**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.

**Head of Household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent. (24 CFR 5.504(b))

**Homeless (as defined for 50058 reporting purposes):** An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; or
- b. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
- c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

or

Any individual or family who:

- a. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; and
- b. Has no other residence; and
- c. Lacks the resources or support networks, e.g. family, friends, and faith-based or other social networks, to obtain other permanent housing.

**Household Members:** All members of the household including members of the family, live-in aides, foster children, and foster adults. All household members are listed on the lease, and no one other than household members are listed on the lease.

**Housing Assistance Plan:** A housing plan that is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR 570.

**Immediate Family Member:** a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.

**Imputed Income:** For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used as income from assets in determining annual income.

**Imputed welfare income:** The amount of annual income not actually received by a family, as a result of a welfare benefit reduction for welfare fraud or the failure to comply with economic self-sufficiency requirements, that is nonetheless included in the family's annual income for purposes of determining rent.

**In-Kind Payments:** Contributions other than cash made to the family or to a family member in exchange for services provided or for the general support of the family (e.g., groceries provided on a weekly basis, baby sitting provided on a regular basis).

**Income Method:** A means of calculating a family's rent based on the greater of 10% of their monthly income, 30% of their adjusted monthly income, the welfare rent, or the minimum rent. Under the income method, rents may be capped by a ceiling rent. Under this method, the family's income is evaluated at least annually.

**Interim (examination):** A reexamination of a family income, expenses, and household composition conducted between the regular annual recertifications when a change in a household's circumstances warrants such a reexamination.

**Law enforcement agency:** The National Crime Information Center (NCIC), police departments and other law enforcement agencies that hold criminal conviction records.

**Live-In Aide:** A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities and who:

- A. Is determined to be essential to the care and well being of the persons;
- B. Is not obligated for the support of the persons; and
- C. Would not be living in the unit except to provide the necessary supportive services. (24 CFR 5.403(b))

A live-in aide is not a party to the lease.

**Low-Income Families:** Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

**Medical Expenses:** Medical expenses (of all family members of an elderly or disabled family), including medical insurance premiums, which are anticipated during the period for which annual income is computed and that are not covered by insurance. (24 CFR 5.603(d)). These expenses include, but are not limited to, prescription and non-prescription drugs, costs for doctors, dentists, therapists, medical facilities, care for a service animals, transportation for medical purposes.

**Mixed Family:** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status. (24 CFR 5.504(b))

**Mixed population development:** A public housing development, or portion of a development, that was reserved for elderly and disabled families at its inception (and has retained that character). If the development was not so reserved at its inception, the PHA has obtained HUD approval to give preference in tenant selection for all units in

the development (or portion of development) to elderly families and disabled families. These developments were formerly known as elderly projects.

**Monthly Adjusted Income:** One twelfth of adjusted income. (24 CFR 5.603(d))

**Monthly Income:** One twelfth of annual income. (24 CFR 5.603(d))

**National:** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession. (24 CFR 5.504(b))

**Near-Elderly Family:** A family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides. (24 CFR 5.403(b))

**Net Family Assets:**

- A. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- B. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.
- C. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms. (24 CFR 5.603(d))

**Non-Citizen:** A person who is neither a citizen nor national of the United States. (24 CFR 5.504(b))

**Occupancy Standards:** The standards that a housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

**Other person under the tenant's control:** For the purposes of the definition of covered person it means the person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as premises is defined in this section) 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.

**Participant:** A family or individual that is assisted by the public housing program.

**Permanently absent:** A person or persons not actually residing in the unit who once lived there and does not intend to return. One becomes permanently absent when one vacates the unit.

**Person with Disabilities:** A person who:

- A. Has a disability as defined in 42 U.S.C. 423

- B. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - 1. Is expected to be of long-continued and indefinite duration;
  - 2. Substantially impedes his or her ability to live independently; and
  - 3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.
- C. Has a developmental disability as defined in 42 U.S.C. 6001.

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

**Personally Identifiable Information (PII):** Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

**Premises:** for purposes of the anti-drug provisions of this policy it means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

**Previously unemployed:** This includes a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

**Processing Entity:** The person or entity that is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs, the processing entity is the responsibility entity.

**Proration of Assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance. (24 CFR 5.520)

**Public Housing:** Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed-finance project that are assisted by a PHA with capital or operating funds.

**Public Housing Agency (PHA):** Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing under the 1937 Housing Act. (24 CFR 5.100)

**Recertification:** The annual reexamination of a family's income, expenses, and composition to determine the family's rent.

**Remaining Member of a Tenant Family:** A member of the family listed on the lease who continues to live in the public housing dwelling after all other family members have left.

**Responsible Entity:**

- A. For the public housing program, the Section 8 tenant-based assistance program 24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;



- B. For all other Section 8 programs, responsible entity means the Section 8 project owner.

**Sensitive Personally Identifiable Information:** PII that when lost, compromised or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

**Sexual Assault:** VAWA defines *sexual assault* as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

**Sexual Orientation:** Homosexuality, heterosexuality, or bisexuality.

**Self-Declaration:** A type of verification statement by the tenant as to the amount and source of income, expenses, or family composition. Self-declaration is acceptable verification only when third-party verification or documentation cannot be obtained.

**Shelter Allowance:** That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

**Single Person:** Someone living alone or intending to live alone who does not qualify as an elderly family, a person with disabilities, a displaced person, or the remaining member of a tenant family. (Public Housing: Handbook 7465.1 REV-2, 3-5)

**Specified Welfare Benefit Reduction:**

- A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection 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.
- B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
1. at the expiration of a lifetime or other time limit on the payment of welfare benefits;
  2. because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
  3. because a family member has not complied with other welfare agency requirements.

**Stalking:** to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

**State Wage Information Collection Agency (SWICA):** The State agency receiving quarterly wage reports from employers in the State or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information. (24 CFR 5.214)

**Temporarily absent:** A person of persons not actually residing in a unit for a period of time while still maintaining control of the unit. If the absence exceeds (180) calendar days, the Housing Authority must agree to the absence.

**Temporary Assistance to Needy Families (TANF):** The program that replaced the Assistance to Families with Dependent Children (AFDC) that provides financial assistance to needy families who meet program eligibility criteria. Benefits are limited to a specified time period.

**Tenant:** The person or family renting or occupying an assisted dwelling unit. (24 CFR 5.504(b))

**Tenant Rent:** The amount payable monthly by the family as rent to the housing authority. Where all utilities (except telephone) and other essential housing services are supplied by the housing authority or owner, tenant rent equals total tenant payment. Where some or all utilities (except telephone) and other essential housing services are supplied by the housing authority and the cost thereof is not included in the amount paid as rent, tenant rent equals total tenant payment less the utility allowance. (24 CFR 5.603(d))

**Third-Party (verification):** Written or oral confirmation of a family's income, expenses, or household composition provided by a source outside the household.

**Total Tenant Payment (TTP):**

- A. Total tenant payment for families whose initial lease is effective on or after August 1, 1982:
  - 1. Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act which is the higher of :
    - a. 30% of the family's monthly adjusted income;
    - b. 10% of the family's monthly income; or
    - c. If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under section 3(a)(1) shall be the amount resulting from one application of the percentage.
  - 2. Total tenant payment for families residing in public housing does not include charges for excess utility consumption or other miscellaneous charges.
- B. Total tenant payment for families residing in public housing whose initial lease was effective before August 1, 1982: Paragraphs (b) and (c) of 24 CFR 913.107, as it existed immediately before November 18, 1996), will continue to govern the total tenant payment of families, under a public housing program, whose initial lease was effective before August 1, 1982.

**Tuition:** The amount of tuition and required fees covering a full academic year most frequently charged to students. These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Verification of tuition and fees can be obtained from the student's bill or annual statement, by contacting the bursar's office, or from the school's website.

Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Expenses related to attending an institution of higher education must **not** be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

For the Public Housing program, the full amount of financial assistance a student receives while participating in the program continues to be excluded from the program participant's annual income.

**Utility Allowance:** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made by a housing authority of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment. (24 CFR 5.603)

**Utility Reimbursement:** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (24 CFR 5.603)

**VAWA:** The Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162, approved August 28, 2006), as amended by the U.S. Housing Act of 1937 (42 U.S.C. 1437d and 42 U.S. 1437f).

**Very Low-Income Families:** Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Victims of Domestic Violence:** Individuals or families who have been or are being subjected to or victimized by violence by a member of the family or household. The PHA will require evidence that the family has been displaced as result of fleeing violence in the home. Individuals and families are also eligible for this preference if there is proof that the individual or family is currently living in a situation where they are being subjected to or victimized by violence in the home. Evidence or proof may include a Protection from Abuse Order, police report, or written verification that the individual or family is living in an emergency shelter because the individual or family has been subjected to or victimized by violence by a member of the family or household. The following criteria are used to establish an individual's or a family's eligibility for this preference:

- A. Verified actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family or where the family has fled it's housing to escape from an abuser.
- B. The actual or threatened violence must have occurred within the past 30 calendar days or be of a continuing nature.

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

The applicant must certify that the abuser will not reside with the applicant unless the Housing Authority gives prior written approval.

The Housing Authority will approve the return of the abuser to the household under the following conditions:

- A. The Housing Authority verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of the recurrence of violent behavior.
- B. A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of the Housing Authority, the Housing Authority will deny or terminate assistance for breach of the certification.

If the family requests it, the PHA will try to ensure that the new location of the family is concealed.

**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. Arrests alone are not sufficient evidence of criminal activity.

**Welfare Assistance:** Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

45 CFR 260.31 defines the term “assistance” to include 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).

It includes such benefits even when they are:

- A. Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
- B. Conditioned on participation in work experience or community service (or any other work activity under 45 CFR 261.30).

Except where excluded later in this definition, it also includes supportive services such as transportation and childcare provided to families who are not employed.

The term “assistance” excludes:

- A. Nonrecurrent, short-term benefits that:
  - 1. Are designed to deal with a specific crisis situation or episode of need;
  - 2. Are not intended to meet recurrent or ongoing needs; and
  - 3. Will not extend beyond four months.
- B. Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
- C. Supportive services such as childcare and transportation provided to families who are employed;
- D. Refundable earned income tax credits;
- E. Contributions to, and distributions from, Individual Development Accounts;
- F. Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
- G. Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

**Welfare Rent:** In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

**Written notification:** All written notifications required in this policy shall be hand delivered with a signed receipt or mailed via first class mail unless specified otherwise.

## ACRONYMS

ACC	Annual Contributions Contract
CFR	Code of Federal Regulations
FSS	Family Self Sufficiency (program)
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
INS (U.S.)	Immigration and Naturalization Service
NAHA	(Cranston-Gonzalez) National Affordable Housing Act
NOFA	Notice of Funding Availability
OMB	(U.S.) Office of Management and Budget
PHA	Public Housing Agency
QHWRA	Quality Housing and Work Responsibility Act of 1998
SSA	Social Security Administration
TTP	Total Tenant Payment

## **Notice of Occupancy Rights under the Violence Against Women Act<sup>2</sup>**

### **To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>3</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees Portsmouth Housing Authority is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

### **Protections for Applicants**

If you otherwise qualify for assistance under Portsmouth Housing Authority’s subsidized programs, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

### **Protections for Tenants**

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<sup>2</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

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

If you are receiving assistance under Portsmouth Housing Authority's subsidized programs, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under Portsmouth Housing Authority's subsidized programs solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

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

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

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

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



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

### **Moving to Another Unit**

Upon your request, HP may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HP may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

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

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

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

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

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

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

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

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

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

### **Confidentiality**

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

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

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

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

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

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

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

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

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

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

### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to

additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

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

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

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>. Additionally, HP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact the Portsmouth Housing Authority.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact Haven NH at 1-603-994-7233 (24-Hour Confidential Hotline) or at [www.havennh.org](http://www.havennh.org).

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

For help regarding sexual assault, you may contact NH Coalition Against Domestic and Sexual Violence at 1-800-277-5570 (24-Hour Confidential Hotline).

Victims of stalking seeking help may contact NH Coalition Against Domestic and Sexual Violence at 1-866-644-3574 (24-Hour Confidential Hotline).

**Attachment:** Certification form HUD -5381, HUD-5382

## PORTSMOUTH HOUSING AUTHORITY

### **Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

#### **Emergency Transfers**

The Portsmouth Housing Authority (PHA) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>4</sup> HP allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>5</sup> The ability of HP to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether HP has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

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

884

#### **Eligibility for Emergency Transfers**

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

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

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

#### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify HP's management office and submit a written request for a transfer to 245 Middle Street, Portsmouth, NH 03801. HP will provide

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<sup>4</sup> Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>5</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

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

### **Confidentiality**

HP will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives HP written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against Women Act For All Tenants for more information about HP's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

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

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

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

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe. Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

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



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

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

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

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

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

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

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

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

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

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

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

Form HUD-5382  
(12/2016)

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

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

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

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

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

\_\_\_\_\_

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

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

\_\_\_\_\_

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

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

\_\_\_\_\_

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

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

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