



LACDA

Los Angeles County Development Authority

**ADMISSIONS AND CONTINUED OCCUPANCY POLICY  
FOR THE CONVENTIONAL PUBLIC HOUSING PROGRAM**

7/1/2024

We Build Better Lives and Better Neighborhoods



# Admissions and Continued Occupancy Policy (ACOP)

**LOS ANGELES COUNTY DEVELOPMENT AUTHORITY**

Approved by the Board of Commissioners: April 9, 2024

Submitted to HUD: April 17, 2024

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## **Introduction**

### **ABOUT THE ACOP**

#### **REFERENCES CITED IN THE ACOP**

Authority for Public Housing Authority (PHA) policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy. Finally, the public housing lease will affect PHA policy and therefore must be consistent with federal and state laws and regulations.

#### **U.S. Department of Housing and Urban Development (HUD)**

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

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

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

#### **State Law**

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

#### **Industry Practice**

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

## RESOURCES CITED IN THE ACOP

The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

### Public Housing Occupancy Guidebook

In June 2020, HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements*, p. 11).

On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to site the Public Housing Occupancy Guidebook.

### Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HUD-50058 IB	HUD-50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
New PH OCC GB	Public Housing Occupancy Guidebook, Various dates of release
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	Verification Guidance, March 2004 (attachment to PIH Notice 2004-1)



## Resources and Where to Find Them

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks, and other HUD resources may be found at the HUD Clips website: [https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips)

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

<b>Document and Location</b>
Code of Federal Regulations <a href="http://www.ecfr.gov">http://www.ecfr.gov</a>
Enterprise Income Verification (EIV) System PHA Security Procedures <a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a>
Executive Order 11063 <a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a>
Federal Register <a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a>
HOTMA Final Rule <a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a>
HOTMA Implementation Notice, PIH 2023-27 <a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a>
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 <a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a>
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 <a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a>
Notice PIH 2010-26, Nondiscrimination and Accessibility Notice <a href="http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf">http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf</a>
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System <a href="https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF">https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</a>
Public Housing Occupancy Guidebook, June 2003 <a href="https://www.hud.gov/sites/documents/DOC_10760.PDF">https://www.hud.gov/sites/documents/DOC_10760.PDF</a>
VAWA Resources <a href="https://www.hud.gov/vawa">https://www.hud.gov/vawa</a>



# CHAPTER 1

## STATEMENT OF POLICIES AND OBJECTIVE

### INTRODUCTION

In 1982, the Los Angeles County Board of Supervisors consolidated three (3) entities- The Housing Authority, the Community Development Department, and the Redevelopment Agency – to form the Community Development Commission (CDC). On May 16, 2019, the agency was officially rebranded as the Los Angeles County Development Authority (LACDA). The LACDA's core pillars include Affordable Housing and Community and Economic Development. The agency's wide-ranging program benefit residents and business owners in the unincorporated Los Angeles County areas and in various incorporated cities that participate in different programs (these cities are called "participating cities").

The LACDA is responsible for Public and Affordable Housing stock located throughout Los Angeles County. Through our efforts to provide and maintain housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards, the LACDA strives for a high standard of property management. In addition, the LACDA believes that residents of Public Housing deserve a living environment that promotes individual achievement and empowers families.

The administration of the Public Housing Program and the functions and responsibilities of the LACDA shall be in compliance with the Annual Contributions Contract (ACC), and this Admissions and Continued Occupancy Policy (herein referred as ACOP). The administration of the LACDA's housing program will also meet the requirements set forth by the U.S. Department of Housing and Urban Development (HUD). Such requirements include any Public Housing Regulations, Handbooks, and applicable Notices. All applicable Federal, State, and local laws, including Fair Housing Laws and regulations also apply. Changes in applicable federal laws or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in Volume 24 Code of Federal Regulations (CFR), Parts V, VII and IX.

**OVERVIEW:** There are three parts to this chapter:

**Part I: The Public Housing Agency (PHA).** This part includes a description of the LACDA's, jurisdiction, its programs, organization and structure, mission statement, local objectives, and commitment to ethics and service.

**Part II: The Public Housing Program.** This part contains information about public housing operation, roles and responsibilities, partnerships, posting of information, Violence Against Women Act (VAWA), family outreach, and privacy statement and confidentiality.

**Part III: The Admissions and Continued Occupancy (ACOP).** This part discusses the purpose and organization of the plan and its revision requirements.



## **PART I: THE PUBLIC HOUSING AUTHORITY (PHA)**

### **1-I.A. OVERVIEW**

This part describes the LACDA's creation and authorization, the general structure of the organization, and the relationship between the LACDA, Board of Commissioners (BOCs), and staff.

### **1-I.B. ORGANIZATION AND STRUCTURE OF THE LACDA**

The Public Housing Program is funded by the federal government and administered by the LACDA for the jurisdiction of the County of Los Angeles. LACDA's jurisdiction includes all unincorporated areas of Los Angeles County. For a list of the LACDA's jurisdiction, please refer to [www.lacda.org](http://www.lacda.org).

LACDA is governed by the Los Angeles County Board of Commissioners (herein referred to as "Board"). The Board of Commissioners ("Commissioners") are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The Board establishes policies under which the LACDA conducts business and ensures that those policies are followed by LACDA staff. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

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

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

The administration of the Public Housing program, functions, and responsibilities of the LACDA shall be in compliance with the Annual Contributions Contract (ACC), and this Admissions and Continued Occupancy Policy (herein referred as ACOP). The administration of the LACDA's housing program will also meet the requirements set forth by the U.S. Department of Housing and Urban Development (HUD). Such requirements include any Public Housing Regulations, Handbooks, and applicable Notices. All applicable Federal, State, and local laws, including Fair Housing Laws and regulations also apply. Changes in applicable federal laws or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in Volume 24 Code of Federal Regulations (CFR), Parts V, VII and IX.

## **1-I.C. LACDA'S MISSION STATEMENT AND LOCAL OBJECTIVES**

**MISSION STATEMENT:** We Build Better Lives and Better Neighborhoods

### **LOCAL OBJECTIVES:**

The ACOP demonstrates that the LACDA manages its program in a manner that reflects its commitment to improving the quality of housing available to the public, and its capacity to manage that housing in a manner that demonstrates its responsibility to the public trust. In addition, the ACOP is designed to achieve the following objectives:

- To provide improved living conditions for very low and low-income families while maintaining their rent payments at an affordable level.
- To operate housing programs that provides decent, safe, and sanitary housing within a suitable living environment for residents and their families.
- To provide opportunities for upward mobility for families who desire to achieve self-sufficiency.

## **1-I.D. LACDA'S COMMITMENT TO ETHICS AND SERVICE**

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

- Administer applicable Federal and State laws, local laws, including Fair Housing laws, and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards—in compliance with the National Standards for the Physical Inspection of Real Estate: Inspection Standards (NSPIRE)—for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational, and other human service needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the LACDA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the LACDA's support systems and commitment to our employees and their development.

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





## **PART II: THE PUBLIC HOUSING PROGRAM**

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

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

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

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

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

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

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the Public Housing and Section 8 programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the Public Housing Program, over-income provisions in Section 103. The Final Rule was officially published in the Federal Register on February 14, 2023, and revises HUD regulations to put sections 102, 103, and 104 of HOTMA into effect. These sections make changes to the United States Housing Act of 1937, particularly those affecting income calculation, reviews, and program eligibility.

On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule. The LACDA will be in full compliance with the HOTMA final rule in accordance with HUD by January 1, 2025, to implement the broader income and asset changes in Section 102 and 104.

## **1-II.B. POSTING OF REQUIRED INFORMATION**

The LACDA will maintain a bulletin board in a conspicuous area of the management offices which will contain:

- ADA 504 Notice
- An Equal Opportunity in Employment Poster
- Current Schedule of Routine Maintenance Charges and Move-out Charges
- Current Resident Notices
- Fair Housing Poster
- Flat Rents Schedule
- LACDA Service Animal Notice
- Notice to Applicants and Residents with Disabilities of LACDA's Policy Regarding Reasonable Accommodations and Reasonable Modifications
- Notices Summarizing the Rights of Limited English Proficiency (LEP) Individuals
- Required Public Notices
- Utility Allowances Schedule
- Violence Against Women (VAWA) Poster

## **1-II.C. VIOLENCE AGAINST WOMEN ACT**

The LACDA's policy is to comply with the 2013 Violence Against Women Reauthorization Act (VAWA) Public Law 113-4-March 7, 2013, and the clarifying VAWA polices in the Federal Register, "Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs" published on November 16, 2016. The LACDA shall not discriminate against an applicant, or public housing resident on the basis of the rights or privileges provided under VAWA.

The LACDA will provide a "Notice of Occupancy Rights under the Violence Against Women Act" HUD form-5380 and "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation" HUD form-5382 published in December 2016 to an applicant that is denied assistance, at Lease-In when a new household is admitted into the program and when a resident is notified of eviction or termination of assistance.

## **1-II.D. FAMILY OUTREACH**

The LACDA will disseminate information to publicize the availability of housing units and housing-related services for very low-income families on a regular basis.

The LACDA will communicate the status of housing availability to other service providers in the community. The LACDA will advise them of housing eligibility factors and guidelines so that service providers can make proper referrals for those who seek housing.

### **1-II.E. PRIVACY STATEMENT**

Applicants and participants, including all adults in their households, are required to sign the form HUD-9886-A, “Authorization for Release of Information and Privacy Act Notice.” This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

The LACDA’s policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

### **1-II.F. CONFIDENTIALITY**

It is the policy of the LACDA to comply fully with all Federal, State, and local laws and with rules and regulations governing Confidentiality in housing. Each LACDA staff signs a “Confidentiality Agreement” at the commencement of their employment and participates in an annual Confidentiality and Security Awareness training. Designated staff is also required to sign the Enterprise Income Verification (EIV) Rules of Behavior at their initial EIV training. LACDA staff agrees not to disclose any applicant/resident information, directly or indirectly, that is of a personal, private, and confidential nature, to any person the information does not pertain to, or use such information in any way, either during the term of their employment or at any other time thereafter, except as follows:

- To an officer, authorized employee, or authorized representative of the LACDA who has a job related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance;
- If the resident/applicant (or resident’s/applicant’s parent/guardian if tenant is a minor) consents in writing;
- If disclosure is allowed by Court Order;
- If disclosure is made to medical personnel in a medical emergency;
- To the duly court appointed guardian or conservator of the individual;
- To a law enforcement or regulatory agency, if the use of the information requested is in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency;
- To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the LACDA reasonably attempts to notify the individual to whom the record pertains, and if the notification is not prohibited by law;
- Disclosure of any information about suspected child or elder abuse and/or neglect reported to appropriate state or local authorities pursuant to state or local law.
- To share resident information that is necessary to determine eligibility for County welfare department programs or services for which the client has applied or is receiving, as authorized by the State of California Health and Safety Code, section 34217.
- To report all former residents in the EIV System who were terminated for adverse actions or who left the program owing money to the LACDA.

- To any individual or organization provided by the applicant/resident on Form HUD-92006 to the LACDA. Information shared with the individual or organization is limited to the reason(s) the individual may be contacted, as provided by Form HUD-92006.
- To an individual who has been given power of attorney by the applicant or resident.

By signing the “Confidentiality Agreement and HUD’s EIV Rules of Behavior Agreement” the LACDA staff agrees that all applicant and resident files, personal identification information (PII), documents and similar items relating to their employment, benefits, bank accounts, etc. whomever prepared by, are and shall remain exclusively the property of the LACDA. Files may be removed from the premises ONLY with the express consent of the Executive Director or his/her designee. A violation of the “Confidentiality Agreement and/or the EIV Rules and Behavior” may result in disciplinary action up to and including termination of employment. The unauthorized release of information may subject the LACDA and the LACDA staff to civil action under the Quality Housing and Work Responsibility Act of 1998.

### **1-II.G. PUBLIC HOUSING PROGRAM BASICS**

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

The job of the LACDA pursuant to HUD regulations is to provide safe, habitable dwelling units to low-income families at an affordable rent. The LACDA screens applicants for public housing and, if they are determined to be eligible for the program, the LACDA makes an offer of a housing unit. If the applicant accepts the offer, the LACDA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a resident in the public housing program.

In the context of the public housing program, a resident is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the LACDA as lessee of the dwelling unit, (2) who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as “**residents**”. Additionally, this policy uses the term “family” or “families” for residents or applicants, depending on context.

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

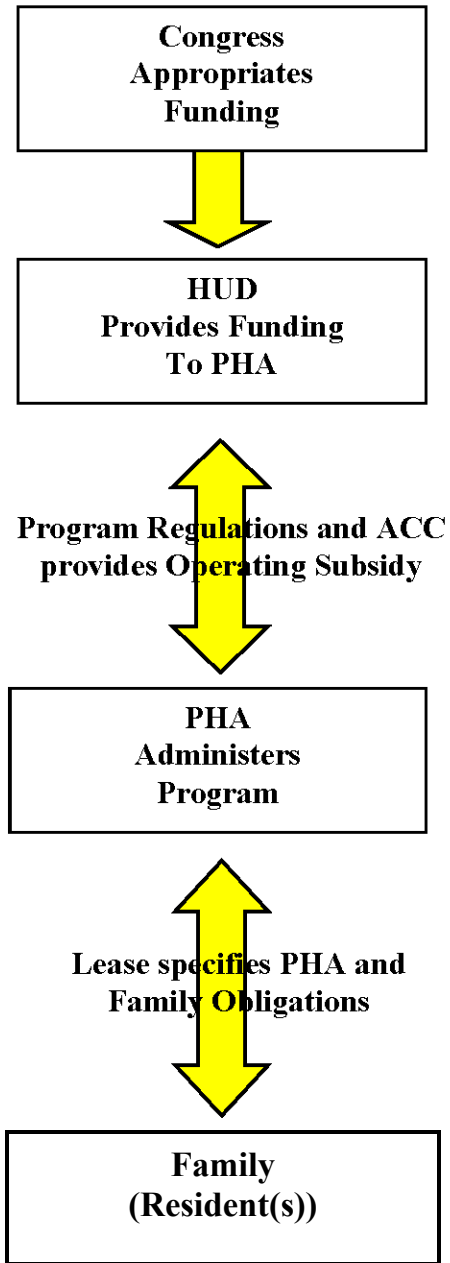
## **1-II.H. PUBLIC HOUSING PARTNERSHIPS**

To administer the public housing program, the LACDA must enter into an Annual Contributions Contract (ACC) with HUD. The LACDA also enters into a contractual relationship with the resident through the public housing lease. These contracts define and describe the roles and responsibilities of each party.

In addition to the ACC, the LACDA and family must also comply with federal regulations and other HUD publications and directives. For the program to work and be successful, all parties involved – HUD, LACDA, and the resident(s) – play an important role.

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

## The Public Housing Relationships



## **What does HUD do?**

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

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

## **What does the LACDA do?**

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

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities;
- Establish local policies and procedures for operating the program;
- Accept applications from interested applicant families and determine whether they are income eligible for the program;
- Maintain waiting list and select families for admission;
- Screen applicant families for suitability as renters;
- Maintain housing units by making any necessary repairs in a timely manner;
- Make unit offers to families (minimize vacancies without overcrowding);
- Maintain properties to the standard of safe, habitable dwelling units (including assuring compliance with National Standards for the Physical Inspection of Real Estate (NSPIRE));
- LACDA ensures it has adequate financial resources to maintain its housing stock;
- Perform regular reexaminations of family income and composition in accordance with HUD requirements;
- Collect rent due from the assisted family and comply with and enforce provisions of the lease;
- Ensure that families comply with program rules and family obligations;
- Provide families with prompt and professional service; and
- Comply with all Fair Housing and Equal Opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, the LACDA's ACOP, and other applicable Federal, State and local laws.

### **What does the resident do?**

The resident's responsibilities are articulated in the Public Housing Lease, Addenda, House Rules and Regulations, and Family Obligations. The resident has the following broad responsibilities:

- Comply with the terms of the LACDA's Lease and house rules, and family obligations;
- Provide the LACDA with complete and accurate information, determined by the LACDA to be necessary for administration of the program by the designated due date;
- Cooperate in attending all appointments (i.e., office, virtual, or phone appointments) as scheduled by the LACDA;
- Allow the LACDA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of NSPIRE caused by the family;
- Not engage in drug-related or violent criminal activity;
- Notify the LACDA before moving or termination of the lease in accordance with the lease notification requirements;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease;
- Notify the LACDA of any changes in family composition or income within 10-days of the occurrence;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs;
- Report maintenance problems to the LACDA promptly; and.
- Comply with LACDA's parking policy.

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



## **1-II.I. APPLICABLE REGULATIONS**

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures



## **PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES**

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

The purpose of the ACOP is to establish guidelines for the LACDA staff to follow in determining eligibility for admissions and continued occupancy. The written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements with latitude for local polies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicants, residents, and the LACDA. The ACOP is required by HUD, and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the LACDA's Agency Plan.

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

The LACDA Board of Commissioners must approve the original policy and any changes. Required portions of the ACOP will be provided to HUD.

### **1-III.B. CONTENTS OF THE POLICY**

Individual regulations contain requirements of inclusion in the LACDA written policy. At a minimum, the ACOP plan should cover LACDA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including, LACDA's admission preferences, procedures for removing applicants from the waiting list(s), and procedures for closing and reopening the LACDA's Public Housing Program waiting list(s) (Chapters 4 and 5);
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12);
- Standards for determining eligibility, suitability for tenancy and occupancy (Chapters 3 and 5);
- Occupancy Standards used to determine the appropriate development and unit size for families (Chapters 3 and 5);
- Procedures for verifying the information the family has provided (Chapter 7);
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4);
- Grievance procedures (Chapter 14);
- Policies concerning payment by a family to the LACDA of amounts the family owes the LACDA (Chapter 15 and 16);
- Annual and Interim redeterminations of family income and composition (Chapter 9);
- Policies regarding Community Service Requirements (CSSR) (Chapter 11);

- Policies and rules about safety, approval, and ownership of pets in public housing (Chapter 10).
- Program Integrity

### **Mandatory vs. Discretionary Policy**

HUD makes a distinction between mandatory policies and non-mandatory policies:

- Mandatory policies: those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel.
- Optional, non-binding guidance: includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

HUD expects LACDA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the LACDA has adopted. The ACOP is comprised of mandatory policies and optional LACDA policy. HUD emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of LACDA policy, even though it is not mandatory, provides a LACDA with a “**safe harbor**.” If THE LACDA adopts an alternative policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but LACDA should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations, and mandatory policy.

### **1-III.C. PURPOSE OF THE POLICY**

The purpose of the ACOP is to establish guidelines for the LACDA staff to follow in determining eligibility for admission and continued occupancy. These guidelines are governed by the requirements set forth by HUD with latitude for local policies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicants, residents, and the LACDA.

The LACDA Board of Commissioners must approve the original policy and any changes. Required portions of the ACOP will be provided to HUD.

## CHAPTER 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

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

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

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

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

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



## **PART I: NONDISCRIMINATION AND FAIR HOUSING POLICIES**

### **2-I.A. NONDISCRIMINATION**

It is the policy of the Los Angeles County Development Authority (LACDA), to comply with the 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., by ensuring that housing is available to all persons without regard to race, color, religion, national origin, disability, familial status (having children under age 18), or sex. This policy means that, among other things, LACDA and its agents or employees must not discriminate in any aspect of housing, including but not limited to denying persons access to housing, because of race, color, religion, national origin, disability, familial status, or sex. Such agents and employees may not:

- a. Make unavailable or deny a dwelling to any person because of race, color, religion, national origin, disability, familial status, or sex;
- b. Discriminate against any person in the terms, conditions, or privileges of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, disability, familial status, or sex;
- c. Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, disability, familial status, or sex, or an intention to make any such preference, limitation, or discrimination; or
- d. Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act. Any agent or employee who fails to comply with this non-discrimination policy will be subject to appropriate disciplinary action.

Any action taken by an agent or LACDA employee that results in the unequal treatment of citizens on the basis of race, color, religion, national origin, disability, familial status, or sex, may constitute a violation of state and federal fair housing laws. An individual who believes that he or she is the victim of discrimination may contact the U.S. Department of Housing and Urban Development at 1-800-669-9777, or the U.S. Department of Justice at 1-202-353-1555.

#### **Providing Information to Families**

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

### **2-I.B. DISCRIMINATION COMPLAINTS**

#### **General Housing Discrimination Complaints**

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

In all cases, the PHA will advise the family that they may file a Fair Housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

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

Within 10 business days of receiving the complaint, the PHA will investigate and attempt to remedy the discrimination complaint made against the PHA. The PHA will also advise the family of their right to file a Fair Housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The Fair Housing poster, posted in conspicuous and accessible locations in PHA lobbies, will reference how to file a complaint with FHEO.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

### **Complaints under the Equal Access Final Rule [Notice PIH 2014-20]**

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that the PHA provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

#### LACDA Policy

Applicants or residents who believe they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify the LACDA either orally or in writing.

Within 10 business days of receiving the complaint, the LACDA will provide a written notice to those alleged to have violated the rule. The LACDA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

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

Within 10 business days following the conclusion of the LADCA's investigation, the LACDA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The LACDA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)



## **2-I.C. VIOLENCE AGAINST WOMEN ACT (VAWA)**

### **Complaint Processing [Notice FHEO 2023-01]**

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

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

Applicants or residents who wish to file a VAWA complaint against the PHA may notify the PHA either orally or in writing by including your name and address, the name and address of the person you are complaining about, the date when the incident occurred, and a short description of what happened. If you are reporting your complaint in writing, you may submit or mail your complaint to your Management Office. To report your complaint orally, you may do so by scheduling an appointment with your Management Office.

The PHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The PHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form at [www.hud.gov/fairhousing/filecomplaint](http://www.hud.gov/fairhousing/filecomplaint), via mail at San Francisco Regional Office of FHEO, U.S. Department of Housing and Urban Development, One Sansome Street Suite 1200, San Francisco, CA 94104, email at [ComplaintsOffice09@hud.gov](mailto:ComplaintsOffice09@hud.gov), or telephone at (1800) 669-9777 or TTY (800) 877-8339.

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

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

**Note:** Per FHEO Notice, VAWA Complaint Process is as follows:

HUD will accept complaints, investigate them, and enforce VAWA using its Fair Housing Act complaint processes, which are specified in its current fair housing regulations. See 42 U.S.C. §§ 3610; 3612; 24 C.F.R. Part 103 – Fair Housing Complaint Processing; 24 C.F.R. Part 180 – Consolidated HUD Hearing Procedures for Civil Rights Matters. VAWA complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint. Individuals who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form at [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/onlinecomplaint](https://www.hud.gov/program_offices/fair_housing_equal_opp/onlinecomplaint). FHEO will accept and begin investigating such complaints on October 1, 2022. As with Fair Housing Act complaints, FHEO will also accept VAWA complaints via mail, email, or telephone.

## **2-I.D. FAIR HOUSING POLICY**

It is the policy of the LACDA to fully comply with all Federal, State, and local nondiscrimination laws, and with rules and regulations governing Fair Housing and Equal Opportunity in housing and employment. The LACDA will comply with all laws relating to Civil Rights, including but not limited to:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Orders 11063 and 13988
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012, and further clarified in Notice PIH 2014-20
- The Violence against Women Act (VAWA)
- Any applicable State laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

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

### LACDA Policy

The LACDA shall not discriminate on the basis of race, color, religion, sex, gender, gender identity and expression, family status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18), national origin, marital status, ancestry, age, sexual orientation, disability, medical condition, source of income, genetic information, military and veteran status, arbitrary characteristics, or any other basis prohibited by law in the leasing, rental, or any other disposition of housing or related facilities, including land, that is part of any development or developments under the LACDA's jurisdiction covered by a contract for annual contributions under the United States Housing Act of 1937, as amended, or in the use or occupancy thereof.

Posters and housing information are displayed in locations throughout the LACDA's office in such a manner as to be easily readable from a wheelchair.

The LACDA's facilities are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TDD telephone service provider.

The LACDA shall not, on account of race, color, religion, sex, gender, gender identity and expression, family status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18),

national origin, marital status, ancestry, age, sexual orientation, disability, medical condition, source of income, genetic information, military and veteran status, arbitrary characteristics, or any other basis prohibited by law:

Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to lease housing suitable to their needs;

Provide housing that is different from that provided to others;

Subject a person to segregation or disparate treatment;

Restrict a person's access to any benefit enjoyed by others in connection with the housing program;

Treat a person differently in determining eligibility or other requirements for admission; or deny a person access to the same level of services.

The LACDA shall not automatically deny admission to a particular group or category of otherwise qualified applicants (e.g., families with children born to unmarried parents, elderly families with pets).



## **PART II: REASONABLE ACCOMMODATIONS AND REASONABLE MODIFICATIONS**

### **2-II.A. OVERVIEW**

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

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

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

#### LACDA's Policy

The LACDA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodations and reasonable modifications, so that they may fully access and utilize the housing program and related services. All requests for a reasonable accommodation and reasonable modification will be verified so that the LACDA can properly accommodate the need presented by the disability. All Residents will be provided with a copy of the "Notice to Applicants and Residents with Disabilities of the Los Angeles County Development Authority Policy Regarding Reasonable Accommodations and Reasonable Modifications" at Lease-In. All Residents will be provided with reasonable accommodation and reasonable modification request information during the following: Lease-In Application; Annual Reexamination; and during adverse actions. The Notice provides applicants and residents with their rights to and procedures to request a reasonable accommodation and/or a reasonable modification.

This policy is applicable to all situations described in the ACOP including but not limited to when a family initiates contact with the LACDA, when the LACDA initiates contact with a family including when a family applies, and when the LACDA schedules or reschedules appointments of any kind.

Person with a Disability or People with Disabilities refers to a person who has:

- A physical or mental impairment that limits one or more major life activities such as caring for oneself, manual tasks, walking, seeing, hearing, speaking, breathing or learning;
- A record of such impairment; or
- Being regarded as having such impairment, and includes all people covered by either federal or state law.

## **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION**

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

- A. A request for a reasonable accommodation may be made at ANY time during the initial application process and throughout the tenancy. The request can be made orally to any staff member or in writing to the LACDA.
- B. It is unlawful for the LACDA to refuse to make reasonable accommodations when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.
- C. To show that a requested accommodation may be necessary, there must be an identifiable relationship, or NEXUS, between the requested accommodation and the individual's disability.
- D. A request for accommodation must be reasonable, i.e., does not pose an undue financial and administrative burden to the LACDA or require a fundamental change to LACDA's housing programs

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

### **Types of Reasonable Accommodations**

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

- Permitting applications and reexaminations to be completed by mail
- Providing “large print” forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a PHA-approved live-in aide to reside in the unit if that person is determined to be

essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities and would not be otherwise living in the unit.

- Providing a designated parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

## **2-II.C. REQUEST FOR AN ACCOMMODATION**

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

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

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

### LACDA Policy

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

## **2-II.D. VERIFICATION OF DISABILITY**

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

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

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

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

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the PHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of it. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].



## **2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION**

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

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

The request was made by or on behalf of a person with a disability.

There is a disability-related need for the accommodation.

The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA's operations.

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

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

### LACDA Policy

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

If the LACDA denies a request for an accommodation because there is no relationship, or nexus found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the LACDA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

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

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

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

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

### LACDA Policy

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

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

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

## **2-II.G. PHYSICAL ACCESSIBILITY**

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

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

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

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

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

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

## **2-II.H. DENIAL OR TERMINATION OF ASSISTANCE**

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

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

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the PHA's grievance process [24 CFR 966.4(1)(3)(ii)].

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

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

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

### **2-III.A. OVERVIEW**

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

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

## **2-III.B. MEANINGFUL ACCESS-FOUR ANALYSIS**

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**

The PHA will offer competent interpretation services free of charge, upon request, to the LEP person.

#### LACDA Policy

When exercising the option to conduct remote hearings, the LACDA will coordinate with LACDA approved interpreters, or may access a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the LACDA. The LACDA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the LACDA will not rely on the minor to serve as the interpreter.

The LACDA will analyze the various 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 and possible, according to its Language Assistance Plan (LAP), the LACDA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

## 2-III.C. WRITTEN TRANSLATION

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

### LACDA Policy

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

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

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

## **2-III.D. IMPLEMENTATION PLAN**

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

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

### LACDA Policy

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



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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses. These amounts are subject to an annual inflationary adjustment in accordance with the Consumer Price Index (CPI) and will be published yearly by HUD. The annual inflationary adjustment will be rounded by HUD to the next lowest multiple of \$25.

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

## **CHAPTER 3**

### **ELIGIBILITY AND SUITABILITY FOR ADMISSION TO PUBLIC HOUSING**

[24 CFR Part 960, Subpart B]

#### **INTRODUCTION**

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

#### **OVERVIEW**

To be eligible for the LACDA's public housing program, an applicant must meet the following criteria:

- The applicant family must:
  - Qualify as a family as defined by HUD and the LACDA.
  - Have a head of household, co-head or spouse/marital-type partner where at least one of these members is either a U.S. citizen or eligible non-citizen. (24 CFR Part 5, Subpart E).
  - Have an annual income at the time of admission that does not exceed the Income Limits for occupancy established by HUD and posted separately on the LACDA website.
  - Qualify on the basis of citizenship or the eligible immigrant status of all family members
  - Provide Social Security number information for household members as required or will provide written certification that they legally cannot obtain Social Security numbers at this time and will notify the LACDA upon receipt of a Social Security number issued by the Social Security Administration office.
  - Consent to the LACDA's collection and use of family information as provided for in LACDA or HUD provided consent forms.
  - Not currently be receiving a duplicative subsidy.
  - Meet net asset and property ownership restriction requirements.
  - Meet the Suitability Criteria as set forth in this chapter.
  - Has no outstanding debts to this LACDA, any other PHA or any other governmental agency, excluding educational loans.
  - Has no current debt to a Utility Company or has entered into a repayment agreement with the Utility Company for outstanding debts.

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

The LACDA shall permanently deny admission to persons convicted of manufacturing or producing methamphetamine on the premises of assisted housing.

The LACDA shall deny admission to sex offenders who are subject to a lifetime registration requirement under a State sex offender's registration program.

**Violence Against Women Act (VAWA): Perpetrator removal or documentation of rehabilitation**

In cases where the applicant family includes the perpetrator as well as the victim, the LACDA will require either:

1. That the perpetrator be removed from the household and not reside in the unit; or
2. That the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.
  - If the family chooses the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or administrative agency, or by a mental health, medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse.
  - The signer of the documentation must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign and attest to the documentation.

**Timing for the Verification of Qualifying Factors**

The LACDA shall not verify eligibility factors until the LACDA "batches" applicant files from one of the thirteen site-based waiting lists after determining that a sufficient number of vacancies warrant a pool of eligible applicants.

This chapter contains three parts:

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

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

**Part III: Denial of Admission.** This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the LACDA to deny admission as well as the asset limitation for public housing.

## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

### 3-I.A. OVERVIEW

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

### 3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, Notice PIH 2014-20, Notice PIH 2023-27, and FR Notice 2/14/23]

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

#### Family

To be eligible for admission, an applicant must qualify as a family. *Family*, as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together.

*Gender Identity* means actual or perceived gender characteristics.

*Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

#### Definition of Family

The term “family” includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

A single person, who is an elderly person, displaced person, a person with disabilities, near-elderly person, or any other single person; or

A group of persons residing together, and such group include, but is not limited to:

1. 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);
2. An elderly family;
3. A near-elderly family;
4. A disabled family;
5. A displaced family;
6. The remaining member of a tenant family;
7. A foster care arrangement, or a kinship care arrangement;

8. Other persons, including members temporarily absent (e.g. a child temporarily placed in foster care or a student temporarily away at college), may be considered a part of the applicant family's household if they are living or will live regularly with the family;
9. Live-In Aides may also be considered part of the applicant family's household. However, live-in aides are not family members and have no right of tenancy or continued occupancy; and
10. Foster Care Arrangements include situations in which the family is caring for a foster adult, child or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency. For purposes of continued occupancy; the term family also includes the remaining member of a resident family with the capacity to execute a lease.
11. Elderly, disabled, and displaced families as defined by HUD in CFR 5.403.

**Other families are defined by the LACDA as follows:**

A family, other than elderly, disabled, or displaced family, is defined by the LACDA as one or more persons who intend to share residency in the public housing unit, and whose income and resources are available to meet the family's needs.

Each family must identify the individuals to be included in the family at the time of registration and must update this information if the family's composition changes within 30 days from the date of the occurrence.

**Household**

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

**3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF APPLICANT FAMILY**

**Family Breakup**

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking see section 16-VII.D of this ACOP.)
- If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

LACDA Policy

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

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

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

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

#### LACDA Policy

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent.

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

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

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

*Spouse* means the marriage partner of the head of household.

#### LACDA Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in State law who, in order to dissolve the relationship, would have to be divorced. The term "spouse" does **not** apply to friends, boyfriends, girlfriends, roommates, significant others, or co-heads who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *cohead* is an individual in the household who is equally responsible for the lease with the head of household and for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A co-head never qualifies as a dependent. A household may only have either a spouse or cohead, but not both.

*Spouses Living Apart* mean an applicant who declares that he/she is married but living apart from their spouse, must provide any of the following documents: current rent receipts, leases, utility bills, employer or agency records, school records, driver's licenses, voter's registration records, credit reports, statement from household with whom the individual is residing. At the LACDA's discretion, verification of residency may also include other documents, certifications, or declarations as needed.

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

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

### **3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]**

A *minor* is a member of the family, other than the head of household or spouse, who is under 18 years of age.

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

#### **Joint Custody of Dependents**

##### LACDA Policy

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

In a joint custody arrangement, if the minor is in the household less than 90 days per year, the minor will be considered to be an eligible guest and not a family member. If both parents reside in Public Housing or any other housing program, only one parent shall be able to claim the child for deductions and for determination for the occupancy standards. The LACDA will request for proof of school enrollment, child custody records, IRS income tax return showing which family claimed the child for income tax purposes, including court-orders.

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

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

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

### **3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]**

#### **Elderly Persons**

An *elderly person* is a person who is at least 62 years of age.

#### **Near-Elderly Persons**

A *near-elderly person* is a person who is 50-61 years of age.

#### **Elderly Family**

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.



### **3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]**

#### **Persons with Disabilities**

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

As discussed in Chapter 2, the PHA must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or the PHA's services.

#### **Disabled Family**

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

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

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

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

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

#### LACDA Policy

Residents shall obtain LACDA management written approval for the presence of any person not identified in the lease as a member of the resident's household who occupies the unit for over ten (10) consecutive days or a total of 14 days within a twelve-month period. The Executive Director or his/her designee has discretionary authority to approve the occupation of a unit beyond 14 days.

In order to verify that a visitor is not an unauthorized household member, the LACDA will require any of the following documents: current rent receipts, leases, utility bills, employer or agency records, school records, driver's licenses, voter's registration records, credit reports, statement from household with whom the individual is residing. At the LACDA's discretion, verification of residency may also include other documents, certifications, or declarations as needed.

The LACDA will consider:

- Statements from neighbors and/or LACDA staff
- Vehicle license plate verification
- Post Office records
- Driver's license verification
- Law enforcement reports
- Credit reports
- Current Lease Agreement or financial records

Use of the unit address as the non-household member's current residence for any purpose is not authorized and is considered a breach of the Lease Agreement.

The burden of proof that the individual is a guest rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the LACDA may terminate the family's lease since prior approval was not requested for the addition.

In a joint custody arrangement, if the minor is in the household less than 90 days per year, the minor will be considered to be an eligible guest and not a family member. If both parents reside in Public Housing or any other housing program, only one parent shall be able to claim the child for deductions and for determination for the occupancy standards. The

LACDA will request for proof of school enrollment, child custody records, including court-orders.

Guests who represent the public housing unit address as their residence address or address of record for receipt of benefits or any other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered to be unauthorized occupants, and their presence constitutes a violation of the lease.

### **3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]**

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

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

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

#### LACDA Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit. Foster children and foster adults will be included in determining unit size.

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

### **3-I.L. ABSENT FAMILY MEMBERS**

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

#### **Definitions of Temporarily and Permanently Absent**

##### LACDA Policy

All changes in family composition, including additions due to birth, adoption, foster adult, court-awarded custody of a minor approved by a social service agency, must be reported within ten (10) calendar days of the occurrence in writing. If an adult family member is declared permanently absent by the head of household, the notice must contain a certification by the head of household [or spouse] that the member (who may be the head of household) removed is permanently absent.

*Absence of Any Member* – any member of the household will be considered permanently absent and removed from the lease if s/he is away from the unit for **90 days** in a 12-month period except as otherwise provided in this chapter.

*Absence of the Entire Family* – if the entire family is absent from the unit for more than 30 consecutive days, whether or not rent has been paid, the unit will be considered to be abandoned and the LACDA will terminate the Lease Agreement.

As a reasonable accommodation for a person with a disability, the LACDA may approve an extension. (See Absence Due to Medical Reasons for other reasons to approve an extension.) During the period of absence, the rent and other charges must remain current.

*Absent Students* – full time students who attend school away from the home and live with the family during school recess. They will be considered temporarily absent from the household.

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

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

##### LACDA Policy

Foster Care Arrangements include situations in which the family is caring for a foster adult, child or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency.

If the family includes a child or children temporarily absent from the home due to placement in foster care, the LACDA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than 180 days from the date of removal of the child(ren), the family will be required to move to a smaller size unit. If all children are removed from the home permanently, the unit size will be reduced in accordance with the LACDA's occupancy guidelines.

*Absence Due to Medical Reasons* – if any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the LACDA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the

verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 120 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remains current. A resident may request a reasonable accommodation to have a longer absence approved. The LACDA has full discretion of approval and will make determinations on a case-by-case basis.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the LACDA's "Absence of Entire Family" policy.

*Absence Due to Incarceration* – if the sole member is incarcerated for more than 90 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 90 consecutive days. The rent and other charges must remain current during this period.

### **3-I.M. LIVE-IN AIDE**

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), 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 for a person with disabilities in accordance with 24 CFR 8.

A live-in aide is considered a household member but not a family member and has no rights or benefits under the program. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide.

Live-in aides do not have the right of tenancy and cannot be added to the families' Lease Agreement. Upon approval by the LACDA, a live-in aide can reside in the household. Live-in aides are required to execute a "Live-In Aide Agreement" with the LACDA.

#### LACDA Policy

A family's request for a live-in aide must be requested in writing. The LACDA will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. Verification of the need for a live-in aide must include the hours the care will be provided. For continued approval, the family may be required to submit a new, written request—subject to LACDA verification—at each annual reexamination.

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

The LACDA has the discretion to disapprove a request for alive-in aide based on the eligibility criteria described in this chapter. A family has the right to an appeal of the

decision under Chapter 14 “Grievances and Appeals”, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

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

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

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

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

If a live-in aide legally cannot obtain a Social Security Number, he/she must sign a certification stating that he/she does not have one. State the individual’s name, state that the individual has not been issued a Social Security Number; state that the individual will disclose the Social Security Number to the LACDA, if he/she obtains one at a later date; and must be signed and dated. The LACDA will issue an Alternate ID (H00#) as an alternative.

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

#### Income Limits

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

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

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

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

*Extremely low-income family.* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

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

HUD also publishes over-income limits annually, but these are not used at admission. Over-income limits will be discussed in Chapter 13.

#### Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]

Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

#### LACDA Policy

The LACDA shall use income guidelines provided by HUD to determine program eligibility for the public housing program. These income guidelines will be posted at all times at the LACDA's site management offices and the LACDA.

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

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

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

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

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

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



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

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

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

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

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

#### **U.S. Citizens and U.S. Nationals**

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

##### LACDA Policy

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

*Citizens or Nationals of the U.S.* are required to sign a declaration under penalty of perjury. In addition, the family will be required to provide documentation to verify eligible status, such as: U.S. Birth Certificate, U.S. Passport, Certification of Naturalization, or required documentation to verify declared status.

*Eligible Immigrants* who were residents and 62 or over on June 19, 1995, required to sign a declaration of eligible immigration status and provide proof of age.

*Eligible Noncitizens (Non-citizens with eligible immigration status)*

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

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

### LACDA Policy

Eligible Noncitizens are required to sign a verification consent form, provide their original immigration documents (which are copied front and back). The LACDA certifies the status through the USCIS Systematic Alien Verification for Entitlements (SAVE) system. If this primary verification fails to verify status, the LACDA must request within ten (10) days that the USCIS conduct a manual search.

Family members who do not claim to be citizens or eligible immigrants must be listed on a statement of non-contending family members signed by the head of household/co-head and/or spouse/marital-type partner.

*Non-Citizen Students on Student Visas:* are ineligible members even though they are in the country lawfully. They must provide their student visa, but their status will not be verified, and they do not sign a declaration but are listed on the statement of non-contending members.

### ***VAWA Self-Petitioner Verification Procedure***

When the LACDA receives a self-petition or INS Form 797 “Notice of Action”, the LACDA will initiate verification in the SAVE System as delineated in PITT 2017-02. During the verification process, housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If this primary verification fails to verify status, the LACDA must request within ten days that the USCIS conduct a manual search. If the final determination is to deny the VAWA self-petition or LPR petition, the LACDA will alert the petitioner and take the appropriate actions in accordance with the ACOP.

VAWA self-petitioners must be verified through the USCIS SAVE system. When the LACDA receives a self-petition or INS Form 797 “Notice of Action”, the LACDA will initiate verification in the SAVE System as delineated in PITT 2017-02. During the verification process, housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If this primary verification fails to verify status, the LACDA must request within ten days that the USCIS conduct a manual search. If the final determination is to deny the VAWA self-petition or LPR petition, the LACDA will alert the petitioner and take the appropriate actions in accordance with the ACOP.

### ***Ineligible Noncitizens***

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

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

### ***Mixed Families***

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

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

No individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

#### LACDA Policy

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

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

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

Grievance hearing procedures are contained in Chapter 14.

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

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

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

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

### LACDA Policy

For applicants and new member add-ons, the LACDA will verify the citizenship status of applicants at the time other eligibility factors are determined through the USCIS Systematic Alien Verification for Entitlements (SAVE) system. If this primary verification fails to verify status, the LACDA must request within ten (10) days that the USCIS conduct a manual search.

*Failure to Provide.* If an applicant or resident family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member and the tenant's rent portion will be prorated. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

*Time of Verification.* For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. For family members added after other members have been verified, the verification occurs prior to the new member moving in. Once verification has been completed for any covered program, it need not be repeated. The LACDA will also request new/updated immigration documents for those individuals whose immigration documents that prove eligibility has expired.

*Extensions of Time to Provide Documents.* The LACDA will grant an extension of 30 days for families to submit evidence of eligible immigrant status, or a receipt issued by the USCIS for issuance of replacement documents. See Chapter 7 for Acceptable Documents of Eligible Immigration.

*Determination of Ineligibility.* After the LACDA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

### **3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six has been added to an applicant family within the six months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

#### LACDA Policy

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

If a family member cannot produce a Social Security Card, only the documents listed below showing his/her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

- A document issued by the Social Security Administration that contains the name and Social Security number of the individual; or
- A document issued by a Federal, State or local government agency that includes the name, Social Security Number and other identifying information about the individual.
- All new family members, except children of age 5 and under, who have not been assigned a number, will be required to produce their Social Security Card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the LACDA and the family member will not be added to the household composition until it is provided.
- A child of age 5 or under who has not been assigned a Social Security Number may be added to the household before providing a Social Security number. However, the parent or guardian will be required to sign a form attesting that the child was never issued a Social Security Number. The family must disclose the child's Social Security Number within 90 calendar days of being added to the family composition.
- If the family is unable to disclose and provide evidence of the Social Security Number within the **90 calendar days**, the LACDA may grant the family an additional **90-calendar** day period to comply with the Social Security Number disclosure and documentation requirement. The additional 90-calendar day period may be granted if

the LACDA determines that the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside of the control of the family. Examples include but are not limited to: delayed processing of the Social Security Number application by the Social Security Administration, natural disaster, fire, death in family etc. If the family fails to provide the required documentation within the established timeframe, the family's assistance will be terminated.

- If the family member states they cannot legally obtain a Social Security number, the family member will be required to sign a certification to this effect.
- If a Live-in Aide cannot legally produce an SSN, the member must declare under penalty of perjury the facts as to why an SSN cannot be legally provided, sign, and date. The LACDA will issue a HUD Alternate ID (H00#).

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.232]**

HUD requires each **adult** family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886-A, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the HUD/PHA consent forms which allow the PHA to obtain information that the PHA has determined is necessary to determine a family's initial and/or continued eligibility, including in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

#### LACDA Policy

Applicants and residents are required to sign specific authorization forms when information is needed that is not covered by the HUD Form 9886-A, Authorization for Release of Information.

Each adult family member requested to consent to the release of information will be provided with a copy of the appropriate forms for their review and signature. Family member refusal to cooperate with the HUD prescribed verification procedure will result in denial of admission or termination of tenancy in accordance with the family's obligation to provide information requested by the LACDA.

*Revocation of Consent Form (Form HUD 9886-A).* LACDA will deny admissions or terminate assistance due to the revocation of consent. The LACDA will afford the Head of Household (HOH) the opportunity to remove the family member who revokes the consent. If the family member revoking the consent is the HOH, the entire family will be denied admission or terminated.

### **3-II.E. ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM SEARCHES [ Notice PIH 2023-27]**

#### **Existing Tenant Search**

Prior to admission to the program, the PHA must search for all household members using the EIV Existing *Tenant Search* module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the resident is a new admission to the PHA, and a match is identified at a Section 8, Multifamily property, or other PHA, LACDA must report the program admission date to the PHA or Multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

#### LACDA Policy

Prior to the new admission, the LACDA will contact the other PHA or owner identified in the EIV report to coordinate the transition to the new program (new admission and move out from the other PHA), confirm that the family has moved out of the unit (to avoid duplicative subsidy), and obtain documentation of current tenancy status (i.e., confirm there is a zero debt owed or no record of an adverse action resulting in the termination). The LACDA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

#### **Debts Owed to PHAs and Terminations**

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant must contact the respective PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

#### LACDA Policy

The LACDA will require each adult applicant household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household, including existing resident members that reach 18 years of age.

The LACDA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the LADCA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.



### **Income and Income Validation Tool (IVT) Reports**

For each post Move-in (New Admission), the PHA is required to review the EIV Income and Income Validation Tool (IVT) Reports to confirm and validate family reported income *within* 120 days of the IMS/PIC submission date of the new admission. The PHA will commence the review of the EIV Income and IVT reports to validate family reported income within 60 days from the move-in date and will resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates in accordance with HUD mandates. A copy of the reports and supporting documents regarding the resolution (if applicable), will be maintained in the applicant/tenant file.



## **PART III: DENIAL OF ADMISSION**

### **3-III.A. OVERVIEW**

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

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

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

This part covers the following topics:

- Required denial of admission
- The asset limitation in public housing
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking
- Notice of eligibility or denial

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

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

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

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

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

#### LACDA Policy

It is the intention of the LACDA to administer a policy that maintains that is safe, habitable, functionally adequate, operable, and free of health and safety hazards public housing. All screening procedures shall be administered fairly and in such a way as to not discriminate on the basis of race, color, religion, sex, gender, gender identity and expression, family status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18), national origin, marital status, ancestry, age, sexual orientation, disability, medical condition, source of income, genetic information, military and veteran status, arbitrary characteristics, or any other basis prohibited by law, as well as not in violation of the right to privacy. These screenings will be deemed current for a period of 90 days at which point the LACDA must run the background check again before time of move in.

The LACDA will obtain and take into consideration criminal summary history information from State and/or local law enforcement agencies, and the Federal Bureau of Investigations (FBI) on all applicants over the age of eighteen for the purpose of determining resident suitability. The LACDA may also obtain and take into consideration public records of past and current criminal history of the applicant and proposed member of the applicant's household. The LACDA will verify the information collected on its applicants and take information into consideration for admissions purposes.

All applicants to the public housing program will be screened for drug-related, violent- and any other criminal activity involving the applicant and proposed member of the applicant's household during the suitability review process. The LACDA defines criminal activity in the following manner:

**Drug-Related Criminal Activity:** the illegal manufacture, sale, distribution, use and/or possession with intent to manufacture, sell, distribute, or use a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)). \*\*Please note that the cultivation, manufacture, distribution, sale, use and/or possession of marijuana with the intent to cultivate, manufacture, distribute, sell, and/or use of marijuana for recreational and/or medical reasons is also a violation of the LACDA's policies relating to drug-related criminal activity and constitutes "drug-related criminal activity" under federal law. The cultivation, distribution, sale, use and/or possession of marijuana for recreational and/or medical reasons subjects' applicants to the denial of admission.

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

### LACDA Policy

The LACDA shall permanently deny admission to any applicant if any household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing, in accordance with HUD regulations. \*\*Please note that the cultivation, manufacture, distribution, sale, use and/or possession of marijuana with the intent to cultivate, manufacture, distribute, sell, and/or use of marijuana for recreational and/or medical reasons is also a violation of the LACDA's policies relating to drug-related criminal activity and constitutes "drug-related criminal activity" under federal law. The cultivation, manufacture, distribution, sale, use and/or possession of marijuana for medical and/or recreational reasons subject applicants to the denial of admission.

The LACDA denies admission of any applicant evicted from federally assisted housing by reason of drug-related criminal activity within the previous three-year period, unless the evicted resident successfully completed a rehabilitation program approved by the LACDA and is willing to continue.

The LACDA shall deny admission to applicants that it determines has reasonable cause to believe a household member's illegal drug use or alcohol abuse or pattern of illegal drug use or alcohol abuse may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

In determining whether to deny admission to public housing based on a pattern of illegal use of a controlled substance or abuse of alcohol by an applicant, and/or prior eviction from federally assisted housing by reason of drug-related criminal activity, the LACDA may consider the following mitigating factors:

Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is willing to continue with counseling and support activities and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

Has otherwise been rehabilitated successfully and is willing to continue with counseling and support activities and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

Is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

The LACDA reserves the right to deny admission to applicants who have engaged in any drug-related criminal activity within a previous three-year period. In such a determination, the LACDA shall take into account the above-listed mitigating factors.

## **Other Factors for Denial of Admission**

### LACDA Policy

#### Denial of Admission of Persons Engaged in Violent Criminal Activity

In accordance with Section 576 (C) of the Quality Housing and Work Responsibility Act of 1998, the LACDA shall deny admission to public housing for any applicant who has engaged in violent criminal activity within the last three years. 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. In accordance with 24 CFR section 960.203 (c) (3), the LACDA may deny the admission of persons who have a history of criminal activity involving crimes of physical violence to persons or property.

**Violent Criminal Activity:** 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.

**Sex Offense Related Criminal Activity:** Any criminal activity that subjects a member of the applicant's household to be subject to sex offender lifetime registration under a state sex offender registration program.

#### Denial of Admission of Persons Engaged in Other Criminal Activity

In accordance with 24 CFR section 960.203 (c) (3), the LACDA may deny the admission of persons who have a history of criminal activity involving criminal acts which would adversely affect the health, safety or welfare of other tenants. The LACDA shall consider "other criminal activity" engaged in by an applicant in determination of suitability for public housing.

**Other Criminal Activity:** any criminal activity including, but not limited to, violent criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the public housing premises by other residents or persons residing in the immediate vicinity or employees of the LACDA.

**Applicant(s) engaging in fraud or bribery associated with any federal housing program:**

The LACDA shall deny admission if the applicant or any household member has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program. The LACDA may make an exception in determining admission if the family member(s) who participated or were culpable for the action do not reside in the assisted unit.

### 3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]

There are two circumstances under which a family is ineligible for the program based on asset ownership.

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

#### LACDA Policy

The LACDA will deny admission to an applicant family for the following reasons:

- First, if the net family assets exceed \$100,000. This amount is subject to HUD's annual inflationary adjustment in accordance with the Consumer Price Index (CPI); and/or
- Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:
  - A present ownership interest in the real property;
  - A legal right to reside in the real property; and
  - The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale;
- If the family does not have the effective legal authority to sell the real property in the jurisdiction in which the property is located, the value of the real property is excluded from annual income; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

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

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



### LACA Policy

The LACDA defines not sufficient for the size of the family as being overcrowded based on the LACDA's occupancy standards in Chapter 5.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the LACDA);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

The LACDA will require third-party generated verification for the reasons noted above for purposes of determining program eligibility.

### **3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION**

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

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

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

#### LACDA Policy

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

##### Rent-Paying Habits:

The LACDA will examine any LACDA records from a prior tenancy and will request written references from the applicant's current landlord and may request written references from the applicant's former landlords for up to the past three years.

Based upon these verifications, the LACDA will determine if the applicant has been evicted for nonpayment of rent within the last three (3) years, or had other legal action initiated against him/her for debts owed. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

##### Other Factors:

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

Owes rent or other amounts to this or any other LACDA or owner in connection with any assisted housing program.

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last three years.

Owes rent or other amounts to any PHA in connection with Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

When denying admission due to family debts as shown in HUD's EIV system, the LACDA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

If the family wishes to dispute the information in the report, the family must contact the respective PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the LACA to support the family's claim. The LACDA will use the Debt Owed module to confirm the debt is "Paid-in Full" prior to issuing a notice of denial. Copy of EIV report will be filed in the applicant's file.

Has engaged in or threatened violent or abusive behavior toward PHA personnel.

*Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

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

### **3-III.E. SCREENING**

#### **Screening for Eligibility**

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

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

#### LACDA Policy

The LACDA will perform criminal background checks through local law enforcement for all adult household members.

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

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

#### LACDA Policy

The LACDA The LACDA will complete a criminal background check of all adult members of the household including screening for National Registered Sex Offender database to screen applicants for admission.

Additionally, PHAs must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

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

## **Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]**

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

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

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

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

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

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

Policy A: The PHA must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or cohead regardless of age.

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

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

### LACDA Policy

#### *Screening Applicants Who Claim Mitigating Circumstances*

Mitigating circumstances are facts relating to the applicant's record of unsuitable history or behavior, which, when verified, would indicate both: (1) what the reason for the unsuitable history and/or behavior is; and (2) that the reason for the unsuitable history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one, justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into the LACDA's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, the LACDA shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. The LACDA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation. Examples of mitigating circumstances:

- Evidence of successful rehabilitation;
- Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by the LACDA;
- Evidence of successful and sustained modification of previous disqualifying behavior.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. The LACDA will consider such circumstances in light of: The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and the applicant's overall performance with respect to all the screening requirements.

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

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

### LACDA Policy

*Suitability Criteria* – All applicants will be processed in accordance with HUD’s regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate ability to comply with essential provisions of the lease as summarized below.

All applicants must demonstrate through an assessment of current and past behavior the ability:

- To pay rent and other charges as required by the lease in a timely manner;
- To care for and avoid damaging the unit and common areas;
- To use facilities, appliances and equipment in a reasonable way;
- To create no health or safety hazards, and to report maintenance needs in a timely manner;
- Not to interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others;
- Not to engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity;
- Not to have ever been convicted of manufacturing or producing methamphetamine, also known as “speed,” on the premises of assisted housing;
- Not to be subject to sex offender lifetime registration under a State sex offender registration program.
- To comply with necessary and reasonable rules and program requirements of HUD and the LACDA; and
- To comply with local health and safety codes.

In developing its admission policies, the aim of the LACDA is to attain a resident body composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families and families with serious social problems. Therefore, it is the policy of the LACDA to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood, or on the quality of life for its residents.

The LACDA will conduct a detailed oral, personal, or virtual interview of all applicants designed to evaluate the qualifications of applicants to meet the essential requirements of tenancy. Answers may be subject to third party verification.

An applicant's misrepresentation of any information related to eligibility, award of preference for admission, housing history, allowances, family composition, criminal history, or rent may result in denial of admission. If the LACDA discovers that an applicant misrepresented such information and that such misrepresentation led to the applicant's admission, the applicant shall be deemed not eligible for admission and shall be subject to termination.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of the lease. Should the applicant require assistance in order to comply with the terms of the lease, the applicant must notify the LACDA. (24 CFR 8.2 Definition: Qualified Individual with Disabilities). The availability of assistance is subject to verification by the LACDA.

The LACDA's minimum age for admission as head of household is 18, so that the LACDA will avoid entering into leases that would not be valid or enforceable under applicable law<sup>1</sup>.

As a part of the final suitability determination, the LACDA will screen each applicant household to assess their suitability as renters.

The LACDA will complete a credit check and rental history check on applicants 18 years of age or older, including emancipated youth within the family composition as noted on the application. The LACDA may complete a home visit at the current residence of all applicants who:

- Have had landlords refuse to sign their Resident Reference Form;

- Stated information on their application that is inconsistent with information on the credit and unlawful detainer report;

- Do not have an established residence at the time of their suitability review (e.g., state they live "here and there with friends");

- Have landlords raise suitability issues on the Resident Reference Forms;

- Have a criminal history that raises suitability concerns;

- Claim to have zero income (to establish how they are meeting their needs);

- Were interviewed by LACDA staff who has found the applicant's statement or behavior to raise concerns regarding suitability.

The LACDA's examination of relevant information pertaining to past and current habits or practices will include, but is not limited to, an assessment of:

- The applicant's past performance in meeting financial obligations, especially rent;

- Eviction or records of disturbance of neighbors sufficient to warrant a police call, destruction of property, or living or housekeeping habits at present or prior residences, which may adversely affect the health, safety, or welfare of other residents or neighbors;

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<sup>1</sup> The LACDA shall make an exception for emancipated minors upon completion of verifying their legal status as such.



Any history of criminal activity on the part of any applicant family member, involving criminal acts, including drug-related criminal activity;

Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors;

Any history of initiating threats or behaving in a manner that indicates intent to assault LACDA/HUD employees, LACDA contractors, or other residents;

Any history of alcohol or substance abuse that would threaten the health, welfare, or right to peaceful enjoyment of the premises by other residents.

Any evidence of housing assistance termination for adverse actions or who left the program owing money to a Housing Authority.

The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by the LACDA. The information to be considered in the screening process shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application in present and prior housing.

The history of applicant conducts, and behavior must demonstrate that the applicant family can reasonably be expected not to:

Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare [24CFR 960.205(b)];

Adversely affect the physical environment or financial stability of the development [24CFR 960.205(b)];

Violate the terms and conditions of the lease [24CFR 8.3];

Require services from LACDA staff that would alter the fundamental nature of the LACDA's program [24 CFR 8.3].

### **3-III.F. CRITERIA FOR DECIDING TO DENY ADMISSION**

#### **Evidence**

##### LACDA Policy

The LACDA will use the preponderance of the evidence as the standard for making all admission decisions.

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

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

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

In the event the PHA receives unfavorable information with respect to an applicant or new member add-on, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, PHAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

### LACDA Policy

The LACDA will consider the following facts and circumstances prior to making its decision:

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

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

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

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

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

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

Whether criminal charges were filed

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

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

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property;

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

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

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

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

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 960.203(c)(3)(i)].

#### LACDA Policy

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

The family must present evidence of the former family member's current address upon PHA request.

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

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

#### LACDA Policy

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

### **3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND HUMAN TRAFFICKING**

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

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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

#### **Notification**

VAWA requires PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

#### LACDA Policy

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

While the LACDA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the applicant may inform the LACDA that their status as a victim is directly related to the grounds for the denial. The LACDA will request that the applicant provide enough information to the LACDA to allow the LACDA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The LACDA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The LACDA will request in writing that an applicant wishing to claim this protection notify the LACDA within 15 calendar days.

## **Documentation**

### **Victim Documentation [24 CFR 5.2007]**

#### LACDA Policy

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

### **Perpetrator Documentation**

#### LACDA Policy

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

A signed statement (1) requesting that the perpetrator be removed from the application and certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit, (2) documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse.

The signer must attest under penalty of perjury to their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

### **3-III.H. NOTICE OF ELIGIBILITY OR DENIAL**

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

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

#### LACDA Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the LACDA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given ten (10) calendar days to dispute the accuracy and relevance of the information. If the family does not contact the LACDA to dispute the information within that ten (10) calendar day period, the LACDA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

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

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

## EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

### Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months;

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that-

  - (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - (ii) is manifested before the individual attains age 22;
  - (iii) is likely to continue indefinitely;
  - (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and
  - (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.
- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

### **Individual with Physical or Mental Impairments [24 CFR 8.3]**

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

(1) Physical or mental impairment includes:

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

(2) Major life activities mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

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

(4) Is regarded as having an impairment means:

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



## CHAPTER 4

### APPLICATIONS, WAITING LIST AND TENANT SELECTION

#### INTRODUCTION

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

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

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

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

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

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

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

**Part III: Tenant Selection.** This part describes the policies that guide the PHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews may/will be used to ensure that the PHA has the information needed to make a final eligibility determination.



## **PART I: THE APPLICATION PROCESS**

### **4-I.A. OVERVIEW**

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

### **4-I.B. APPLYING FOR ASSISTANCE**

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

#### LACDA Policy

The policy of the LACDA is to ensure that all families who express an interest in public housing assistance are given an equal opportunity to apply and are treated in a fair and consistent manner. This chapter describes the policies and procedures for entering new applications on up to thirteen site-based waiting lists based on eligibility, opening, and closing of the waiting lists, determining essential applicant information for waiting list placement, administering preferences, and removing applicants from a waiting list. The LACDA maintains thirteen separate waiting lists, with seven of those waiting lists designated as Elderly-Only housing developments.

#### ***Entering New Applicants on a Waiting List***

During the opening of the Public Housing Site Based Waiting Lists (SBWL), applicants interested in public housing may call the LACDA's application phone line to register to be placed on up to thirteen waiting lists (contingent upon unit size required and other eligibility requirements as set forth) or apply online at [www.lacda.org](http://www.lacda.org). Upon a request from a person with a disability, the LACDA will make the waiting list application available in an accessible format. The LACDA provides a full listing of the locations of accessible units and their features on the LACDA website and a "Notice to Applicants and Residents with Disabilities of the LACDA's Policy Regarding Reasonable Accommodations and Reasonable Modifications". The Notice provides the applicants and residents with their rights to and procedures to request a reasonable accommodation and/or reasonable modification.

Current public housing residents are prohibited from reapplying and placing their name on any of the thirteen waiting lists.

#### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

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

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

The PHA will provide reasonable accommodations as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted, and the application process will be fully accessible and provide an alternate approach that provides equal access to the program. Chapter 2 provides a full discussion of the LACDA's policies related to providing reasonable accommodations for people with disabilities.

##### **Limited English Proficiency**

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

#### **4-I.D. PLACEMENT ON THE WAITING LIST**

The PHA will review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless the PHA determines the family to be ineligible. Where the family is determined to be ineligible, the PHA will notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

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

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

##### LACDA Policy

Upon submission of the initial application, the LACDA will post on the online waiting list registration page the applicant's eligibility and waiting list(s) status.

Effective July 1, 2024, upon submission of the initial application, if any the Head-of-Household, Co-Head, Spouse, or Domestic Partner are currently receiving assistance within the LACDA's Public Housing program, the applicant is determined as ineligible.

Should the family be determined as ineligible, based on the information provided during the initial application, the LACDA will notify the family in writing (or in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal hearing. Persons with disabilities may request to have an advocate attend the informal hearing as an accommodation. Refer to the chapter "Grievances and Appeals."

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

##### LACDA Policy

The purpose of the initial application is to permit the LACDA to determine placement on the waiting lists. At the time of the application intake, whether through the application phone line or website, the LACDA will obtain the following information:

- Name, residence address and social security number of the head of household;
- Name and social security number of any co-head, spouse/marital-type partner;
- Name and social security number of each additional household member;
- Date of birth for each household member;
- Date and time of application;
- Amount of annual income;
- Disability status for each member;
- Information regarding request for reasonable accommodation or a need for an accessible unit with specific features;
- Employment address;
- Veteran status if applicable; and

- Homelessness status if applicable

The LACDA requires that applicants report in writing or update their online portal account to the LACDA of changes in family composition and address within 30 calendar days of the occurrence. The LACDA also requires that applicants respond to requests from the LACDA by the established due date, to update information on their application, or to determine their continued interest for assistance.

### **Initial application and placement on the waiting list**

#### LACDA Policy

If the head of household/co-head and/or spouse/marital-type partner no longer need housing assistance, or are deceased, their application and placement on the waiting list will be immediately forfeited and cannot be transferred to any other family member or person.

### **Multiple families in the same household**

When families apply that consist of two families living together, (such as a mother and father, and a daughter with their own husband or children), if they apply as a family unit, they will be treated as a family unit and will only be provided one (1) unit if offered housing.

#### LACDA Policy

The LACDA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5).

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the LACDA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

## **PART II: MANAGING THE WAITING LIST**

### **4-II.A. OVERVIEW**

The PHA must be in compliance with its policies regarding the type of waiting list it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the PHA may structure its waiting list and how families must be treated if they apply for more than one assisted housing program administered by the PHA.

### **4-II.B. ORGANIZATION OF THE WAITING LIST**

The PHA's public housing waiting lists will be organized in such a manner that allows the PHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

#### LACDA Policy

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

- Resident and employment address (if applicable) of the head of household
- Name, date of birth, and social security number of head of household, co-head/marital type partner
- Name, employment address, social security number, date of birth, relationship to the head of household for each additional member
- Amount of the household's gross annual income
- Disability status for each member
- Accessibility requirement, if any (need for an accessible unit with specific features)
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Veteran status if applicable
- Homeless if applicable
- Race and ethnicity of the head of household
- The specific public housing wait list(s) selected

The LACDA requires that applicants report in writing or update their online portal account to the LACDA of changes in family composition and address within 30 calendar days of the occurrence. The LACDA also requires that applicants respond to requests from the

LACDA by the established due date, to update information on their application, or to determine their continued interest for assistance.

The PHA may adopt one community-wide waiting list or site-based waiting lists. The PHA must obtain approval from HUD through submission of its Annual Plan before it may offer additional site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

LACDA Policy

Currently, the LACDA maintains thirteen separate waiting lists, with seven of those waiting lists designated as Elderly-Only housing developments approved by HUD.

***General Occupancy Waiting Lists:***

Carmelitos Family	Long Beach, CA
East County Family	East Los Angeles, CA
Harbor Hills Family	Lomita, CA
Quartz Hill Family	Quartz Hill, CA
Santa Monica Family	Santa Monica, CA
South Scattered Sites Family	South Los Angeles, CA

***Elderly-Only waiting lists:***

Carmelitos Senior	Long Beach, CA
East County Senior	East Los Angeles, CA
Foothill Villa Senior	La Crescenta, CA
Marina Manor Senior	Marina Del Rey, CA
Orchard Arms Senior	Valencia, CA
South Bay Gardens Senior	South Los Angeles, CA
West Knoll/Palm Senior	West Hollywood, CA

**Note:** HUD requires that public housing applicants must be given the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the PHA administers if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, that the PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

LACDA Policy

The LACDA will **not** merge the public housing waiting lists with the waiting lists for any other program that the LACDA administers.



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

### Closing the Waiting List

The PHA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. The PHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

#### LACDA Policy

The LACDA, at its discretion, may restrict application intake, suspend application intake, and close waiting lists in whole or in part. The decision to close any of the thirteen waiting lists will be based on the number of applications available for a particular size and type of unit, and the ability of the LACDA to house an applicant in an appropriate unit within a reasonable period of time.

### Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. The PHA should publish a notice announcing the opening of the waiting list in local newspapers of general circulation, minority media, and other suitable media outlets. Such notice must comply with HUD fair housing requirements. The PHA will specify who may apply, and how, where, and when applications will be accepted.

#### LACDA Policy

The LACDA will publicly announce the decision to close any of the thirteen waiting lists and/or restrict intake through public notice in local newspaper publications, media entities, and social service agencies. The public notice will contain the date and time when the LACDA will close a waiting list. Generally, the LACDA will give at least ten (10) days' notice prior to closing any of the thirteen site-based waiting lists. Furthermore, during the period when a waiting list is closed, the LACDA will **not** maintain a list of individuals who wish to be notified when a waiting list is open.

Upon a reasonable accommodation request from a person with a disability, an accommodation may be granted such as additional time for submission of an application after the closing deadline. An individual may request a reasonable accommodation at any time.

Opening of a waiting list will be announced at least 30-days prior to the opening. Announcements will be made in the same manner as closing of a waiting list. This notice will be made in an accessible format if requested. It will provide potential applicants with information that includes the LACDA address and telephone number, how to apply, and information on eligibility requirements.

Unless a waiting list is closed, the LACDA will accept an application, even if the LACDA believes that the applicant is probably not eligible. If an applicant would like to be removed from a waiting list they selected, the applicant must submit a request in writing and submit this request prior to being selected from a specific waiting list.

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

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

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

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

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

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

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

##### LACDA Policy

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

#### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

##### LACDA Policy

While the family is on the waiting list, the family must inform the LACDA within 30 calendar days of the occurrence (change in family size or composition, preference status, current residence, employment address- if applicable, mailing address, and phone number). The changes must be submitted in writing (via mail or the online portal).

The LACDA requires that applicants report their changes in writing at 700 W. Main Street, Alhambra, CA 91801, ATTN Housing Operations Division **or** update their online portal account. The LACDA also requires that applicants respond to requests from the LACDA by the established due date, to update information on their application, or to determine their continued interest for assistance.

#### **4-II.F. UPDATING THE WAITING LIST**

HUD requires the PHA to establish policies that describe the circumstances under which applicants will be removed from the waiting list [24 CFR 960.202(a)(2)(iv)].

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

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the PHA's request for information or updates (in writing or verbally) due to the family member's disability, then PHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

##### LACDA Policy

The waiting list will be updated as needed to ensure that all applicant information is current.

To update the waiting list, the LACDA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program.

This update request will be sent to the applicant's last known address that the LACDA has on record. The interest notices/update requests 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 any of the 13 waiting lists.

The family's response must be in accordance with the LACDA's established methods for a response (i.e., writing, online, or call the LACDA during the permitted time to respond). Written responses must be postmarked or received by the LACDA not later than the established due date. If the family fails to respond within established due date, the family will be removed from any of the 13 waiting lists without further notice.

If the interest notice is returned by the U.S. Postal Office, the applicant will be removed from all selected waiting list without further notice.

If a family is removed from the waiting list for failure to respond, the LACDA may reinstate the family if the lack of response was due to LACDA error, to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse. The LACDA will require the family to provide verification connected to the reason for the cancellation.

A waiting list may be purged at least once a year by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing and/or notification on the LACDA website/online portal will request for current information and confirmation of continued interest in the program. Notices will be made available in an accessible format upon the request of a person with a disability.

## **Removal from the Waiting List**

### LACDA Policy

If an applicant is no longer interested in a specific or all 13 public housing waiting list(s), the LACDA will remove an applicant from the waiting list upon written request. In such cases no informal hearing is required.

Should an applicant fail to respond within by the established due date, they will be removed from all selected waiting lists. If a letter is returned by the U.S. Postal Office with a forwarding address, it will be considered as 'returned undeliverable' and the applicant will be subject to removal from all selected waiting lists. An extension to reply to the purge notification will be considered as a reasonable accommodation if requested by a person with a disability. The LACDA will also consider as an accommodation the reinstatement of an applicant who did not respond in the timeframe described above because of a verified reason connected to a disability.

Additionally, once an application packet has been mailed to the applicant's last known address, the LACDA does not permit applicants to self-cancel because the family prefers to wait until they are reached at the top for their preferred wait list (wait list not yet selected), the applicant will be removed from any of the 13 wait lists. However, if the family's reason for the request is out of their control, as a direct result of status, such as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse, the LACDA will consider the circumstances, so as long as the family can provide verification connected to the reason for the cancellation.

## **Reinstatements**

### LACDA Policy

Granting a request for re-instatement by applicants removed from all selected waiting lists due to their failure to respond will be at the discretion of the LACDA and verification will be required. The LACDA will take into consideration factors, such as:

- A verified family/health/work emergency;
- The applicant failed to respond to a request for information or updates because of a family member's disability;
- The applicant can provide verification or attest they were homeless at the time of the mailing;
- The applicant can verify a mail delivery problem;
- The applicant failed to respond to a request for information due to the applicant's status as a victim of domestic violence, dating violence, sexual assault, or stalking.

Periodically, applicants will call to check their status on the waiting list and learn that they have been purged from the waiting list. In extenuating circumstances, such as those listed above, the applicant may be reinstated. However, the applicant must provide documentation of the circumstances. Such requests will be reviewed and decided on a case-by-case basis by the LACDA.

In addition, the LACDA will remove applicants from all selected public housing waiting lists once they have been housed, have requested in writing that their names be removed, have not responded to the LACDA's request for information, have not met the eligibility/suitability screening criteria, or they have refused an offer of housing without good cause (24 CFR 960.206).

Applicants who are denied (because the LACDA determined they were ineligible/unsuitable) are entitled to an informal hearing. Please refer to chapter 14 "Grievances and Appeals."

## PART III: TENANT SELECTION

### 4-III.A. OVERVIEW

The PHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The PHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The PHA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status, or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

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

The PHA shall maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 960.206(e)(2)]. The PHA's policies are posted on the LACDA's website at <http://www.lacda.org> and in a conspicuous area in all management offices. In accordance with HUD, the PHA must provide a copy of its tenant selection policies upon request to any applicant or tenant. The LACDA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

#### LACDA Policy

When an applicant or resident family requests a copy of the LACDA's tenant selection policies, the LACDA will refer the requestor to the LACDA's website for an electronic copy at <https://www.lacda.org>, or will provide copies to them free of charge.

#### **4-III.B. SELECTION METHOD**

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

##### **Local Preferences [24 CFR 960.206]**

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the Agency Plan and the Consolidated Plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

##### LACDA Policy

A preference is not an automatic guarantee of admission to the program. Preferences are used to establish the order of placement on the waiting lists. Every applicant must meet the LACDA's Selection Criteria as defined in this policy.

The LACDA's preference system will work in combination with requirements to match the characteristics of the family to the type of unit available, including units with targeted populations, and further de-concentration of poverty in public housing. When such matching is required or permitted by current law, the LACDA will give preference to qualified families.

The LACDA will mail a full application to families who reach the top of a waiting list. The LACDA will verify their waitlist preference status. Applicants may not retain their preference status on a waiting list if upon verification of their preference, it is deemed invalid. Furthermore, applicants will be returned to the wait list without the preference status and will maintain the original registration date. Applicant will be cancelled if they fail to complete the application process and will be removed from all other site-based wait list the family selected.

Among applicants with equal preference status, waiting lists will be organized according to date and time of application.

##### *Local Preferences*

Local preferences will be used to select among applicants on a waiting list. A public notice with opportunity for public comment will be held before the LACDA adopts or changes any local preference.

The notice will be distributed following the same guidelines as those used for opening or closing a waiting list.

##### *General Occupancy Housing Developments*

The LACDA has established the following local admissions preferences for general occupancy housing developments:

In accordance with the State of California Health and Safety Code section 34322.2, the LACDA gives priority to families of veterans and servicepersons including the



spouse/marital-type partner of a deceased veteran or serviceperson, within each of the admissions preference categories below.

**First Preference: Homeless**

**Homeless Families and Victims of Domestic Violence:**

The LACDA provides a countywide waiting list preference for homeless families. The preference is limited to 30% of the number of vacant general occupancy public housing units available on July 1 of each fiscal year. The family must consist of two (2) or more persons with one (1) member being under the age of 18 or be single elderly and/or disabled person. Victims of domestic violence, dating violence, sexual assault or stalking receive the same admissions preference as homeless families.

For the family properties located specifically in the South Los Angeles County area, the LACDA provides an expanded waiting list homeless preference by first offering any unit that becomes available to a homeless family.

Effective July 01, 2021, the LACDA will provide an expanded waiting list homeless preference, limited to three (3) households per year, for each of the family housing developments at Carmelitos, Nueva Maravilla, and Harbor Hills.

To qualify for this preference, homeless families must be referred by a Joint Powers Authority (JPA), County agencies or Community Based Organizations (CBOs) with a contract or Memorandum of Understanding (MOU) in place with the LACDA. Additionally, the LACDA will require partner agencies to use a Coordinated Access System for homeless referrals. The referring agency must provide a certification of the family's homeless status.

**Transitional Aged Youth (TAY):**

The LACDA provides a homeless preference to TAY. This preference is limited to 3 households per housing development at Carmelitos, Harbor Hills, and Nueva Maravilla, where on-site services are available to ensure that case management will continue to be provided. In order to qualify for the TAY, the applicant must be referred to the LACDA by a JPA, County agencies or CBO with a contract or MOU in place with the LACDA. Additionally, the LACDA will require partner agencies to use a Coordinated Entry System for homeless referrals.

**Second Preference:** Families that have been displaced by a natural disaster declared by the President of the United States or through a governmental action.

**Third Preference:** Families who live and/or work or who have been notified that they are hired to work in unincorporated Los Angeles County or who live in Los Angeles County and not covered by another PHA Public Housing program. Subject to an approved MOU agreement with local PHAs.

**Fourth Preference:** Families that do not live or work in unincorporated Los Angeles County.

## **Elderly Families Housing Developments**

The LACDA has established the following local admissions preferences for elderly-only housing developments:

The LACDA will implement a pilot program in partnership with the Public Defender's Office, and Aging and Disabilities Department, to create a pathway for elderly justice involved families to access safe and affordable housing. An elderly family is a household whose head, co-head, spouse, or sole member is a person who is at least 62 years of age. An elderly family may consist of two or more persons who are at least 62 years of age living with one or more live-in aides.

Upon implementation, the LACDA will provide a waiting list preference for justice-involved elderly families that were previously incarcerated or have conviction histories with obstacles to accessing or securing stable and affordable housing, limited to five (5) households per year. Elderly families must be referred by a partnering agency with a contract or Memorandum of Understanding in place with the LACDA. The referring agency must provide a certification of the elderly family's conviction history and need for housing. The LACDA will evaluate the results of the pilot program to determine necessary program adjustments in support of the long-term success of referred elderly families.

In accordance with the State of California Health and Safety Code section 34322.2, the LACDA gives priority to families of veterans and servicepersons including the spouse/marital-type partner of a deceased veteran or serviceperson, within each of the admissions preference categories below.

**First Preference:** For the Carmelitos, Nueva Maravilla "Rosas", and Francisquito Villa senior designated properties, 25% of anticipated annual vacancies will be offered to homeless elderly families. Elderly families must be referred by a partnering agency with a contract or MOU in place with the LACDA. The referring agency must provide a certification of the elderly family's homeless status. An elderly family is a household whose head, co-head, spouse, or sole member is a person who is at least 62 years of age. It may include 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.

**Second Preference:** Elderly Families that live and/or work or who have been notified that they are hired to work in unincorporated Los Angeles County or who live in Los Angeles County and not covered by another PHA Public Housing program. Subject to an approved MOU agreement with local PHAs.

**Third Preference:** Elderly Families who do not live and/or work in unincorporated Los Angeles County.

The LACDA has an MOU with the Long Beach Housing Authority to permit residents of the City of Long Beach to be classified as in-jurisdiction applicants for housing at the Carmelitos Public Housing development only. Once the LACDA provides public housing assistance to a City of Long Beach resident at the Carmelitos Public Housing development, the resident must abide by and is governed by all policies in the LACDA's Admissions and Continued Occupancy Policy, Public Housing Lease Agreement ("Lease"), any Lease addendums and any other Public Housing rules and policies. Additionally, these residents

are eligible to transfer to any other Public Housing development owned by the LACDA. Approval of a transfer request is delineated in Chapter 7 “Transfer Policy”.

### **Verification Of Preference Qualification**

A family’s placement on any one of the thirteen waiting lists is based upon whether the family qualifies for an admissions preference. When a family is selected from one of the waiting lists during the final determination of eligibility, the LACDA shall verify the preference.

If the preference verification indicates that the family did not qualify for an admissions preference at the time of selection, the family will be returned to the waiting list and ranked **without** regard for a local preference and given an opportunity for a review.

### **Change in Circumstances**

Changes in applicant’s circumstances while on any of the thirteen waiting lists may affect the family’s entitlement to a preference. Applicants are required to notify the LACDA in writing when their circumstances change within 30 calendar days of the occurrence. When an applicant claims an additional preference, s/he will be placed on a waiting list in the proper order of their newly claimed preference.

### **Preference Denial**

If the LACDA denies a preference, the LACDA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal hearing. The applicant will have ten (10) calendar days to request the hearing in writing. If the preference denial is upheld as a result of the hearing, or the applicant does not request a hearing, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against by the LACDA.

### **Factors Other Than Preferences That Affect Selection of Applicants**

Before applying its preference system, the LACDA will first match the characteristics of the available unit to the applicants available on a specific waiting list. Factors such as unit size, accessible features, de-concentration, or income mixing, income targeting, or units in housing designated for the elderly and/or disabled limit the admission of families to those characteristics that match the characteristics and features of the vacant unit available.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application.

**A family that is disabled and requires specific accessible features, will be prioritized for vacant ADA units ahead of a family that is non-disabled.**

## **Income Targeting Requirement [24 CFR 960.202(b)]**

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during the PHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, the PHA may skip non-ELI families on the waiting list in order to select an ELI family.

If a PHA also administered the Housing Choice Voucher (HCV) program, admissions of extremely low-income families to the PHA's HCV program during a PHA fiscal year that exceed the 75 percent minimum target requirement for the voucher program shall be credited against the PHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the PHA fiscal year; (2) ten percent of waiting list admissions to the PHA's HCV during the fiscal year; or (3) 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 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

### LACDA Policy

The LACDA will monitor its admissions to ensure that at least 40% of families admitted to public housing in each fiscal year shall have incomes that do not exceed 30% of area median income of the LACDA's jurisdiction.

The LACDA shall, at its discretion, at least annually, exercise the "fungibility" provision of QHWRA by admitting less than 40% of "extremely low-income families" to public housing in a fiscal year, to the extent that the LACDA has provided more than 75% of newly available Section 8 Housing Choice Vouchers to "extremely low-income families." This fungibility provision discretion by the LACDA is also reflected in the LACDA's Section 8 Administrative Plan.

The fungibility credits will be used to drop the annual requirement below 40% of admissions to public housing for extremely low-income families by the lowest of the following amounts:

The number of units equal to 10% of the number of newly available vouchers in the fiscal year; or

The number of public housing units that 1) are in public housing developments located in census tracts having a poverty rate of 30% or more, and 2) are made available for occupancy by and occupied in that year by, families other than extremely low-income families.

**The Fungibility Floor:** Regardless of the above two amounts, in a fiscal year, at least 30% of the LACDA's admissions to public housing will be for extremely low-income families. The fungibility floor is the number of units that cause the LACDA's overall requirement for housing extremely low-income families to drop to 30% of its newly available units.

### **Mixed Population Developments [24 CFR 960.407]**

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

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

The PHA may designate developments or portions of a public housing development specifically for elderly or disabled families. The LACDA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the LACDA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the LACDA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the PHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse effect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

## LACDA Policy

### **Units Designated for The Elderly**

The LACDA submitted an Allocation Plan as required by the 1992 Housing Act to designate specific units or sites for elderly applicants only. HUD approved the designation of twelve Public Housing developments as Elderly-Only (all household members must be 62 years of age or older). In accordance with the 1992 Housing Act, elderly families will receive a preference for admission to these twelve Elderly-Only housing developments. If there is a shortage of Elderly-Only applicants, the LACDA has the option to house near-elderly families (ages fifty to sixty-one years of age).

HUD approved the senior designation of the housing developments listed below on August 27, 2013. A non-elderly resident (61 years or younger) living at any of the Elderly-Only housing developments listed below prior to August 27, 2013, is “grandfathered” in and allowed to remain at the property. If a resident living at a Senior Only housing development request to add a new household member to their Lease after August 27, 2013, the new household member must be 62 years or older. It is the policy of the LACDA to comply fully with all Federal, State, and local nondiscrimination laws and with rules and regulations governing Fair Housing and Equal Opportunity in housing and employment. The LACDA will comply with all laws relating to Civil Rights. Refer to the Fair Housing Amendments Act of 1988, 24 CFR 960.102, 24 CFR 960.407, 24 CFR 945, and 1992 Housing Act.

### **Elderly-Only Housing Developments**

Carmelitos, Long Beach  
Nueva Maravilla “Rosas”, Los Angeles  
West Knoll, Hollywood  
Palm, Hollywood  
Marina Manor I, Marina Del Rey  
Marina Manor II, Marina Del Rey  
Orchard Arms, Valencia  
Foothill Villa, La Crescenta  
Francisquito Villa, La Puente  
Whittier Manor, Whittier  
Herbert Avenue, Los Angeles  
South Bay Gardens, Los Angeles

### **Units Designated for the Disabled**

The LACDA may elect at some future time to submit an Allocation Plan as required by the 1992 Housing Act to designate specific units or sites for disabled applicants only. In accordance with the 1992 Housing Act, disabled families with a head of household/co-head and/or spouse/marital-type partner or sole member who qualifies as a person with

disabilities as defined in 24 CFR 945.105 will receive a preference for admission to units that are covered by a HUD-approved Allocation Plan.

### **General Occupancy Units**

General occupancy units are designed to house all populations of eligible families. In accordance with the LACDA's occupancy standards, eligible families will be admitted to the LACDA's general occupancy units.

The LACDA will use its local preference system as stated in this chapter for admission of eligible families to its general occupancy units.

### **Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]**

The PHA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income developments. A statement of the PHA's deconcentration policies must be included in its Annual Plan [24 CFR 903.7(b)]. A resident's gross annual income is used to determine income limits at admission and for income-mixing purposes.

Note: Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a PHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a PHA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

The PHA's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

### **De-Concentration and Income-Mixing Goals**

#### LACDA Policy

The LACDA's de-concentration and income-mixing goal, in conjunction with the requirement to target at least 40% of new admissions to public housing in each fiscal year to "extremely low-income families," will be to admit higher income families to lower income developments, and lower income families to higher income developments.

De-concentration will apply to transfer families as well as applicant families.

### ***Steps for Implementation [24 CFR 903.2(c)(1)]***

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the PHA must comply with the following steps:

**Step 1.** The PHA must determine the average income of all families residing in all the PHA's covered developments. The PHA may use the median income, instead of average income, provided that the PHA includes a written explanation in its annual plan justifying the use of median income.

#### LADCA Policy

The LADCA's admission policy is designed to provide for de-concentration of poverty and income-mixing by bringing higher income residents into lower income developments and lower income residents into higher income developments.

A resident's gross annual income is used to determine income limits at admission and for income-mixing purposes.

**Step 2.** The PHA must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, the PHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

#### LACDA Policy

The LACDA's admission policy is designed to provide for de-concentration of poverty and income-mixing by bringing higher income residents into lower income developments and lower income residents into higher income developments. The LACDA will determine on an annual basis the average income of all families residing in general occupancy developments (not adjusting for unit size).

A resident's gross annual income is used to determine income limits at admission and for income-mixing purposes.

**Step 3.** The PHA will determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. *However, the upper limit must never be less than the income at which a family would be defined as an extremely low-income family (federal poverty level or 30 percent of median income, whichever number is higher)*

**Step 4.** The PHA will then determine whether or not the developments having average incomes outside the EIR are consistent with its local goals and LACDA Annual Plan.

**Step 5.** Where the income profile for a covered development is not explained or justified in the Annual Plan submission, the LACDA may explain or justify the income profile of these developments as being consistent with and furthering two sets of goals:

1. Goals of de-concentration of poverty and income mixing (bringing higher income residents into lower income developments and vice versa); and
2. Local goals and strategies contained in the LACDA's Agency Plan.



## **De-Concentration Policy**

Depending on local circumstances the PHA's deconcentration policy may include, but is not limited to the following:

- Skipping a family on any of the 13 wait lists to reach another family in an effort to further the goals of LACDA's deconcentration policy.
- If a unit becomes available at a development below the EIR, the first eligible family on a waiting list with income above the EIR will be offered the unit. If that family refuses the unit, the next eligible family on the waiting list with income above the EIR will be offered the unit. The process will continue in this order. For the available unit at the development below the EIR, if there is no family on the waiting list with income above the EIR, or no family with income above the EIR accepts the offer, then the unit will be offered to the next family regardless of income.
- If a unit becomes available at a development above the EIR, the first eligible family on the waiting list with income below the EIR will be offered the unit. If that family refuses the unit, the next eligible family on the waiting list with income below the EIR will be offered the unit. The process will continue in this order. For the available unit at the development above the EIR, if there is no family on the waiting list with income below the EIR, or no family with income below the EIR accepts the offer, then the unit will be offered to the next family regardless of income.

### LACDA Policy

Skipping of families for de-concentration purposes will be applied uniformly to all families.

- A family has the sole discretion whether to accept an offer of a unit made under the LACDA's de-concentration policy. The LACDA shall not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under this de-concentration policy. However, the LACDA shall uniformly limit the number of offers received by applicants, described in this Chapter.
- The LACDA provides a waiting list preference to homeless families referred by the agencies listed in this Chapter. Only the veteran/serviceperson and homeless preferences can override de-concentration and income mixing policies.
- If the average incomes of all general occupancy developments are within the Established Income Range, the LACDA will be considered to be in compliance with the de-concentration agreement.
- Nothing in the de-concentration policy relieves the LACDA of the obligation to meet the income targeting requirements.

### LACDA Incentives for Higher Income Families

- The LACDA may offer certain incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities.

- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments.
- Establishing a preference for admission of working families in developments below the EIR.

### **Promotion of Integration**

Beyond the basic requirement of nondiscrimination, LACDA shall affirmatively further fair housing to reduce racial and national origin concentrations.

The LACDA shall not require any specific income or racial quotas for any development or developments.

The LACDA shall not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, gender, gender identity and expression, family status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18), national origin, marital status, ancestry, age, sexual orientation, disability, medical condition, source of income, genetic information, military and veteran status, arbitrary characteristics, or any other basis prohibited by law for purposes of segregating populations.

Providing other strategies permitted by statute and determined by the PHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and PHA strategic objectives.

A family has the sole discretion whether to accept an offer of a unit made under the PHA's deconcentration policy. The PHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the PHA's deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, the PHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

## **Order of Selection [24 CFR 960.206(e)]**

The PHA system of preferences will select families either according to the date and time of application and the PHA's local preferences.

### LACDA Policy

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

When selecting applicants from the waiting list, the LACDA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the selected public housing waiting list(s) and deemed eligible. The LACDA will offer the unit to the highest-ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

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

#### 4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the LACDA will notify the family in writing [24 CFR 960.208].

##### LACDA Policy

The LACDA will notify the family by first class mail when it is selected from the waiting list, including application status update on the LACDA's online application portal.

The notice will inform the family of the following:

- Application Due date and LACDA's return mailing address; or
- Date, time, and location of the scheduled application interview (if applicable), including any procedures for rescheduling the interview;
- Who is required to attend the interview;
- Documents that must be provided at the interview (mailed by the due date with the full-application packet) to document the legal identity of household members, including information about what constitutes acceptable documentation;
- Documents that must be provided at the interview (or to be mailed by the due date with the full-application packet) to document eligibility for a preference, if applicable; and
- Other documents and information to be submitted with the application packet or that should be brought to the interview (if applicable).

Reasonable accommodation(s) will be made for persons with a disability that may include: providing materials in formats requested by applicants, allowing applicants to be represented by a family member, advocate, or case worker designated by the applicant, completing paperwork at a site other than the LACDA administrative office for applicants who cannot come to the office for a reason connected to their disability, granting extended time for responses to persons who cannot respond within the established timeframes because of a disability and reinstating applicants who do not respond within established timeframes due to a verified reason connected to a disability.

Preferences are based on an applicant's current status and shall be verified during the eligibility review, regardless of the length of time an applicant may have been on a specific waiting list. **The preference must exist at the time the LACDA initiates verification of applicant information.** The LACDA shall conduct Third Party Verification (TPV) of eligibility and preference at the time the LACDA initiates the eligibility review.

Additionally, the LACDA shall provide the applicant with the opportunity to complete information on Form HUD-92006, "Supplement to Application for Federally Assisted Housing". The forms give applicants the option to identify an individual or organization that the LACDA may contact and the reason(s) the individual may be contacted. The applicant must sign and date Form HUD-92006 if the applicant elects to provide the additional contact information. The LACDA shall not require any individual or family applying for occupancy to provide the contact information as providing contact information is optional on the part of the individual or family. The LACDA shall also provide applicants the opportunity at the time of admission to update, remove or change contact information

provided at the time of application. An applicant may provide Form HUD-92006 for each contact, indicating the reason the LACDA may contact the individual or organization. Those applicants who choose not to provide the contact information must check the box indicating that they “choose not to provide the contact information” and sign and date the form.

If a notification letter is returned to the LACDA with or without a forwarding address, the family will be removed from all public housing waiting lists selected without further notice. Such failure to act on the part of the applicant prevents the LACDA from making an eligibility determination, therefore the LACDA will not offer an informal hearing.

#### **4-III.D. THE APPLICATION INTERVIEW**

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the PHA will grant the family an extension to submit proof of SSN to allow the family to retain its place on the waiting list for ten (10) calendar days or designated due date. [Notice PIH 2018-24].

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

##### LACDA Policy

The LACDA utilizes the interview session to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure such information is complete. Families are also given information on LACDA services or programs that may be available.

All adult family members may be required to attend an in person or virtual interview. Exceptions may be made for adult students attending school out of state or for members for whom attendance would be a hardship.

It is the applicant's responsibility to reschedule the interview and call the LACDA within five (5) business days if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meeting(s), the LACDA will cancel the application and will be removed from all other wait list selected by the applicant.

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

If the LACDA determines at or after the interview that additional information or document(s) are needed, the LACDA will request the document(s) or information in a legible written format. An applicant may request to submit the required requested document(s) or information in an alternative format. The family will be given ten (10) calendar days to supply the information. Should this information not be supplied within the timeframe, the LACDA will provide the applicant a notification of cancellation for assistance.

If the information is not supplied in this time period, the LACDA will provide the family a notification of denial for assistance and will be removed from all waiting list selected by the applicant. (See Chapter on Grievances and Appeals.)

The LACDA will verify for the following items upon the receipt of the application to determine qualification for admission to the LACDA's public housing program:

- Preference(s)
- Family composition and type (elderly/non-elderly)

- Annual income
- Assets and Asset Income
- Deductions from Annual Income
- Social Security Numbers for all family members
- Information used in applicant screening
- Citizenship or eligible immigration status
- Criminal history
- Rental history
- School enrollment (for all household members attending school)
- Credit history

Before the LACDA makes a **final** determination for qualification for admissions to the LACDA's Public Housing program, all adult family members may be required to attend an in person or virtual interview conducted by the LACDA. Exceptions may be made for adult students attending school out of state or for members for whom attendance would be a hardship.

The LACDA only transfers Head of Household status to persons listed on the waiting list or application as Spouse or Co-Head under the following circumstances:

- In the event of the death of the Head of Household, a person already listed as the Spouse or Co-Head on the waiting list or application may request a change of the Head of Household status by submitting a signed, written request along with a copy of the death certificate of the original Head of Household.
- In all other cases (including, but not limited to divorce, separation, abandonment, medical incapacity), the Head of Household status will be changed only when the original Head of Household submits to the LACDA a written release of the application to the Spouse or Co-Head, or if the Spouse or Co-Head requesting the transfer of Head of Household status submits to the LACDA legal documentation of his/her right to the application.

Pending disclosure and documentation of social security numbers, the LACDA will allow the family to retain its place on the waiting list during the application process for *ten* (10) calendar days or designated due date. If not, all household members have disclosed their SSNs at the next time a unit becomes available, the LACDA will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the LACDA will proceed with the application process. If the LACDA determines the family is not eligible for the preference, the family will be placed back on the waiting list according to the date and time of their application without the local preference.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay.

The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the LACDA will provide the family with a written list of items that must be submitted.

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

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

Mail communication, including interviews will be conducted in English. For limited English proficient (LEP) applicants, the LACDA will provide translation services in accordance with the LACDA's LEP plan.

If the family is unable to attend a scheduled interview, it is the applicant's responsibility to reschedule the interview and call the LACDA within five (5) business days prior to the appointment. LACDA will send a second notification letter with a new appointment date and time. If the applicant does not reschedule or misses two scheduled meeting(s), the LACDA will cancel the application and will be removed from all other wait list selected by the applicant.

The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested, and their application will be cancelled. Such failure to act on the part of the applicant prevents the LACDA from making an eligibility determination, therefore the LACDA will not offer an informal hearing.



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

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

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant will be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

##### LACDA Policy

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

After the verification process is completed, the LACDA shall make a final determination of eligibility based upon information provided by the family, the verification conducted by the LACDA, and determination of resident suitability (refer to chapter on Eligibility for Admission). The LACDA will notify a family in writing of their eligibility and will provide the approximate date of occupancy insofar as that date can be reasonably determined (i.e., according to unit availability).

A final eligibility determination is needed since rules and regulations governing the housing program are subject to change by HUD and/or applicants may have experienced a change in circumstance(s) during the review process that may affect their eligibility.

The applicant is not actually eligible for a unit offer until this final determination has been made, even though they may have been preliminarily determined eligible and have been placed on the waiting list. **Additionally, applicants have a continuing obligation to provide material information to the LACDA within 30 calendar days of the occurrence.**

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

##### LACDA Policy

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

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

The LACDA will provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence

against Women Act, and as outlined in 16-VII.C, at the time the applicant is provided assistance or at the time the applicant is denied assistance. This notice will be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution); or (2) when a family is notified of its ineligibility.

## CHAPTER 5

### OCCUPANCY STANDARDS AND UNIT OFFERS

#### INTRODUCTION

The LACDA shall establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The PHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

**Part I: Occupancy Standards.** This part contains the LACDA's standards for determining the appropriate unit size for families of different sizes, compositions, and types.

**Part II: Unit Offers.** This part contains the LACDA's policies for making unit offers and describes actions to be taken when unit offers are refused.



## **PART I: OCCUPANCY STANDARDS**

### **5-I.A. OVERVIEW**

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

## 5-I.B. DETERMINING UNIT SIZE

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

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

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

The PHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

### LACDA Policy

The LACDA will use the same occupancy standards for each of its developments.

The LACDA's occupancy standards are as follows:

Generally, the LACDA will assign one bedroom for each **two (2) persons**

A minimum of one person per bedroom.

All members of the family residing in the unit must be approved by the LACDA. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, court-awarded custody and/or of a minor child approved by a social service agency (i.e., DPSS, DCFS, etc.), in which case the family must inform the LACDA within ten (10) calendar days in a legible written format. An applicant may request to inform the LACDA in an alternative format.

The temporary absence of a child from the home due to placement in foster care may be considered in determining family composition and family size, which will be considered in determining bedroom size.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Children related to a household member by birth, adoption, or court awarded custody will be considered when determining unit size.

Foster children will be considered when determining unit size. The family may add foster children to the household as long as it does not overcrowd the unit based on the PHA's occupancy standards.

Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.

Children in the process of being adopted will be considered when determining unit size.

Children who will live in the unit less than 50 percent of the time will not be considered when determining unit size.

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

<b>BEDROOM SIZE</b>	<b>MINIMUM NUMBER OF MEMBERS</b>	<b>MAXIMUM NUMBER MEMBERS</b>
0 BEDROOMS	1	2
1 BEDROOMS	1	2
2 BEDROOMS	3	4
3 BEDROOMS	5	6
4 BEDROOMS	7	8
5 BEDROOMS	9	11

### **5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

#### **Types of Exceptions**

##### LACDA Policy

The LACDA will consider granting exceptions to the occupancy standards at the family’s request if the LACDA determines the exception is justified by the relationship, age, sex, health, or disability of family members, or reasonable accommodation.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B.) and the family does not want to transfer to a larger size unit.

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

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

## Processing of Exceptions

### LACDA Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the LACDA will encourage an existing resident to make the request in writing using a reasonable accommodation request form. However, the LACDA will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

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

### *Person with Disability*

The LACDA will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified and meets requirements in the "Reasonable Accommodations and Reasonable Modifications" section.

Accessible units will be offered to non-mobility impaired applicants only with the understanding that such applicants must accept a transfer to a non-accessible unit at a later date if a person with a mobility impairment requiring the unit applies for housing and is determined eligible. Refer to Chapter 3 Section U "Offer of Accessible Units."

### *Other Circumstances*

Circumstances may dictate a larger size than the occupancy standards permit when:

As a reasonable accommodation.

Persons cannot share a bedroom because of a need for medical equipment due to its size and/or function. Verification from a doctor must accompany requests for a larger bedroom to accommodate medical equipment.

Requests based on health-related reasons must be verified by a doctor.

The LACDA will grant exceptions from the guidelines in cases where it is the family's request or the LACDA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances, and there is a vacant unit available. If an applicant requests to be listed on a smaller or larger bedroom size waiting list, the following guidelines will apply.

Applicants may request to be placed on any of the thirteen waiting lists for a unit size smaller than designated by the occupancy guidelines, (as long as the unit is not overcrowded according to local codes). The family must agree not to request a transfer until they have been admitted and have occupied the unit for 18 months.

The family may request to be placed on a larger bedroom size waiting list than indicated by the LACDA's occupancy guidelines. The request must explain the need or justification for a larger bedroom size and must be verified by the LACDA before the family is placed on the larger bedroom size waiting list.



In all cases, where the family requests an exception to the general occupancy standards, the LACDA will evaluate the relationship and ages of all family members and the overall size of the unit.

The LACDA will notify the family of its decision within 10 calendar days of receiving the family's request.

### **Occupancy Standards Are Applicable to Transfers**

#### LACDA Policy

When a change in the circumstances of a resident family requires another unit size, if the unit is not available at the time it is requested, the family will be placed on the Transfer List.

The unit considerations in this section should be used as a guide to determine whether and when the bedroom size should be changed. If a situation occurs which is not currently covered in this policy, the case should be taken to the Property Manager who will make the determination after review of the situation, the individual circumstances, and the verification provided.

### **Occupancy by Police Officers**

#### LACDA Policy

In order to provide an increased sense of security for public housing residents the LACDA will allow a public housing unit to be occupied by a police officer if needed.

Police Officers will not be required to be income eligible to qualify for admission to the LACDA's public housing program.

## **Plan for Unit Offers**

### LACDA Policy

The LACDA plan for selection of applicants and assignment of dwelling units will assure equal opportunity and non-discrimination on grounds of race, color, religion, sex, gender, gender identity and expression, family status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18), national origin, marital status, ancestry, age, sexual orientation, disability, medical condition, source of income, genetic information, military and veteran status, arbitrary characteristics, or any other basis prohibited by law. The LACDA plan for selection is based on how many available units of suitable size and type within each of the thirteen waiting lists are available. This plan is also based on the distribution of vacancies within each of the thirteen waiting lists.

The applicant will be offered one (1) unit offer for the next available unit in the location within the waiting lists selected by the applicant. If the offer is rejected, the LACDA will cancel the applicant. The LACDA will proceed to remove the applicant's name from all wait lists selected. Removal from all selected waiting lists means the applicant must reapply when the waiting list is open.

If more than one unit of the appropriate type and size is available within a waiting list, the first unit to be offered will be the first unit that is ready for occupancy.

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

## **CHANGES PRIOR TO UNIT OFFER**

### LACDA Policy

Changes that occur during the period between removal from a waiting list and an offer of a suitable unit may affect the family's eligibility or Total Resident Payment. The family will be notified in writing of changes in their eligibility or level of benefits and offered their right to an informal hearing when applicable. (See chapter on Grievances and Appeals.)

## **PART II: UNIT OFFERS**

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

### **5-II.A. OVERVIEW**

The PHA shall assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

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

#### LACDA Policy

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

### **5-II.B. NUMBER OF OFFERS**

#### LACDA Policy

The LACDA has adopted a one (1) offer plan for offering units to applicants. Under this plan, the LACDA's selection is based on how many units of suitable size and type within each of the thirteen waiting lists are available. This plan is also based on the distribution of vacancies within each of the thirteen waiting lists.

The applicant will be offered the next available unit in the location within the waiting lists selected by the applicant. If the offer is rejected, the LACDA will cancel the applicant. The LACDA will proceed to remove the applicant's name from all wait lists selected. Removal from all selected waiting lists means the applicant must reapply.

If more than one unit of the appropriate type and size is available within a waiting list, the first unit to be offered will be the first unit that is ready for occupancy.

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

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

### LACDA Policy

Applicants must accept one (1) max unit offer made within three (3) calendar days of the date the offer is made. At the LACDA's discretion or for ADA accommodations, the LACDA may extend the timeframe to accept or reject a unit offer. Offers made over the telephone will be confirmed in writing by the LACDA. If the LACDA is unable to contact an applicant by telephone, the LACDA will write to the applicant to inform him/her of the unit offer.

For reasonable accommodations, additional unit offer(s) may be made to accommodate the applicant's approved ADA request.

Offers made by telephone will be confirmed by letter.

## 5-II.D. REFUSALS OF UNIT OFFERS

When an applicant rejects the one unit offer or fails to respond within the three (3) calendar days of the date the offer is made, the LACDA will remove the applicant's name from all selected waiting list(s) and a written notice will be mailed to the last known applicant's address.

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

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

### LACDA Policy

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

The family demonstrates to the LACDA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities, or applicant needs to provide adequate notice to their current landlord of the termination of their lease.

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

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

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

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

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

The LACDA will require documentation of good cause for unit refusals, the family must provide the necessary documentation to prove 'good cause' by the LADCA's established due date.

### **Unit Refusal without Good Cause**

#### LACDA Policy

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

The applicant may reapply for assistance if the waiting list is open. If the waiting list(s) is/are not open, the applicant must wait to reapply when the LACDA opens the waiting list.

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

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

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

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

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

### LACDA Policy

The LACDA has units designed for persons with mobility, sight, and hearing impairments, referred to as accessible units.

No non-mobility impaired families will be offered these units until all eligible mobility-impaired applicants have been considered.

Before offering a vacant accessible unit to a non-disabled applicant, the LACDA will offer such units:

First, to a current occupant of another unit of the same development, or other public housing developments under the LACDA's control, who has a disability that requires the special features of the vacant unit.

Second, to an eligible qualified applicant on a specific waiting list having a disability that requires the special features of the vacant unit.

### *Public Housing Lease Agreement Addendum Requirement*

When offering an accessible/adaptable unit to a non-disabled applicant, the LACDA will require the applicant to sign the "Addendum to Public Housing Lease Agreement" that certifies that the applicant will relocate after receiving a thirty (30) day written notice to the first available vacant unit of appropriate size, at the same or comparable housing development site, should the modified unit be required for an eligible disabled family. Residents must return the keys to their old unit within five (5) calendar days of the date the transfer offer was made. If the transfer is to another housing development, and the resident does not return the keys to their old unit, the sending development, in addition to billing the resident, will also notify the receiving development of the resident's outstanding balance. Failure to pay outstanding charges within thirty (30) calendar days from the date

of invoice to the LACDA is a material breach of the Lease Agreement and the resident will be subject to termination of their tenancy.

#### **5-II.F. DESIGNATED HOUSING**

##### LACDA Policy

LACDA's policies for offering units designated for elderly families only or for disabled families only are described in the LACDA's Agency Plan. Refer to Chapter 4 regarding HUD's approved designation of the seven (7) Elderly-Only Housing Developments.





## CHAPTER 6

### INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

#### INTRODUCTION

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

**Part I: Annual Income.** HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

**Part II: Assets.** HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

**Part III: Adjusted Income.** Once annual income has been established, HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to adopt additional permissive deductions. These requirements and PHA policies for calculating adjusted income are found in Part III.

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



## PART I: ANNUAL INCOME

### 6-I.A. OVERVIEW [24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income received by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27]. The family must provide proof of the actual amounts received if different from a court order. The PHA will verify tenant provided information to determine actual income received.

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B. and 6-I.C. discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

### Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and PHA policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources (both earned and unearned) is <b>excluded</b> [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is <b>excluded</b> [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income <u>not specifically excluded</u> by the regulations are <b>included</b> [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is <b>excluded</b> [24 CFR 5.609(b)(3)].  All other sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is <b>excluded</b> [24 CFR 5.609(b)(14)].  All other sources of unearned income, except those specifically excluded by the regulations, are included.

## **Temporarily Absent Family Members**

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.

### LACDA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Any member of the household will be considered permanently absent and removed from the lease if s/he is away from the unit for 90 days in a 12-month.

## ***Absent Students***

### LACDA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the LACDA indicating that the student has established a separate household, or the family declares that the student has established a separate household. The LACDA will require proof of the absent student’s school enrollment/continued education records.

## ***Absences Due to Placement in Foster Care***

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

### LACDA Policy

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

If the time period is to be greater than 180 days from the date of removal of the child(ren), the family will be required to move to a smaller size unit. If all children are removed from the home permanently, the unit size will be reduced in accordance with the LACDA’s occupancy guidelines.

## ***Absence of Any Member***

### LACDA Policy

Any member of the household will be considered permanently absent and removed from the lease if s/he is away from the unit for 90 days in a 12-month period except as otherwise provided in this chapter.

The LACDA, at its discretion, may initiate a transfer of the remaining household members to an appropriately sized unit in accordance with the Occupancy standards (see Chapter 5).

### ***Family Members Confined for Medical Reasons***

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs will verify to determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations*, p. 12].

#### LACDA Policy

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the LACDA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 120 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remains current. A resident may request a reasonable accommodation to have a longer absence approved. The LACDA has full discretion of approval and will make determinations on a case-by-case basis.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the LACDA's "Absence of Entire Family" policy.

### ***Absence Due to Incarceration***

#### LACDA Policy

If the sole member is incarcerated for more than 90 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 90 consecutive days. The rent and other charges must remain current during this period.

### ***Joint Custody of Children***

#### LACDA Policy

In a joint custody arrangement, if the minor is in the household less than 90 days per year, the minor will be considered to be an eligible guest and not a family member. When more than one applicant or assisted family (*regardless of program*) are claiming the same dependents as family members, the family **with primary custody** at the time of the application, annual examination, or interim reexamination will be able to claim the dependents.

If there is a dispute about which family should claim them, the LACDA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, including school records/enrollment, etc.

## **Verification of Permanent Absence of Adult Member**

### LACDA Policy

If an adult member who was formerly a member of the household is reported permanently absent by the family, the LACDA will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
- Statements from other agencies such as social services that the adult family member is no longer living at that location.
- If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.
- If the adult family member is permanently confined to a nursing home, verification is required from the nursing home.

## **Remaining Minor Member of Resident Family-Retention of Unit**

### LACDA Policy

If neither parent remains in the household, nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the LACDA will treat that adult as a visitor for the first 90 calendar days. This will be noted as an exception to the LACDA's Visitor Policy.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Tenant Suitability criteria, the lease will be transferred to the caretaker.

If the court has not awarded custody or legal guardianship, but the action is in process, the LACDA will secure verification from social services staff or the attorney as to the status.

The LACDA will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Tenant Suitability criteria and has been in the unit for more than 90 days and it is reasonable to expect that custody will be granted.

When the LACDA approves a person to reside in the unit as caretaker for the child(ren), the income of the caretaker should be counted pending a final disposition. The LACDA will work with the appropriate service agencies to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 90 days, the person will be considered permanently absent.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household.

A minor, who was part of the household, can also qualify as a “remaining member of the resident family”. A minor will be authorized to remain in the unit by establishing emancipation or by adding another adult, who has been determined eligible and suitable by the LACDA, to the Lease. The added adult will become the new head of household. When such situations arise, the LACDA will work with the minor’s advocate, which may be another adult relative or DCFS caseworker, to determine the appropriate course of action and time necessary for the minor to meet one of the two criteria to remain in the unit.



## 6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

### **Anticipating Annual Income [24 CFR 5.609 (C)1]**

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (based on current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

#### LACDA Policy

The accurate calculation of Annual Income and Adjusted Income ensures that families are not paying more or less money for rent than their obligation under the regulations.

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

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the LACDA to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the LACDA annualized projected income.

#### ***Known Changes in Income***

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

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

## **6-I.D. EARNED INCOME**

### ***Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]***

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

### LACDA Policy

The accurate calculation of Annual Income and Adjusted Income ensures that families are not paying more or less money for rent than their obligation under the regulations.

This chapter defines the allowable deductions from gross Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subpart F and further instructions set forth in HUD Notices, Memoranda and Addenda. However, the QHWRA gives Public Housing Programs broader flexibility to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

### ***Military Pay***

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

### ***Earnings of a Minor [24 CFR 5.609(b)(3)]***

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

### ***Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]***

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, Lease Requirements, p. 5].

### **6-I.E. EARNED INCOME DISALLOWANCE**

[24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]

Housing Opportunity Through Modernization Act of 2016 (HOTMA) removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; **no new families will be added on or after January 1, 2024**. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full **24-month period**. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner. EID is not available to ineligible non-Citizens.

#### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

The household must meet one of the following three categories listed below to qualify for EID:

1. Employment by a family member who was previously unemployed for one or more years prior to employment.

The HUD definition of "previously unemployed" includes a person who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

2. An increase in income by a family member whose earnings increased during participation in an economic self-sufficiency or other job-training program.

An economic self-sufficiency program is any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Amounts to be excluded are any earned income increases of a family member during the self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment. The amount of TANF received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies and transportation assistance.

3. New employment or increased earning by a family member who has received TANF benefits or services within the past 6 months.
  - If TANF is received in the form of monetary maintenance, there is no minimum amount that must be received to be considered a participant in TANF.
  - If TANF is received in the form of one-time payments, wage subsidies and transportation assistance that add up to at least \$500 over a 6-month period.

## **Calculation Method**

### ***Initial 12-Month Exclusion***

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded (including full-time students).

#### LACDA Policy

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

### ***Second 12-Month Exclusion***

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

#### LACDA Policy

During the second 12-month exclusion period, the LACDA will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

## **Tracking the Earned Income Exclusion**

#### LACDA Policy

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be maintained using a tracking system to ensure the correct application of the earned income and to document the reason for the reduced increase in rent.

The LACDA will maintain a tracking system in its software to ensure correct application of the full and phase-in exclusion periods for the earned income disallowance for the qualifying member (including full-time students).

### **Lifetime Limitation**

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will be sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

### **Individual Savings Accounts (ISA) [24 CFR 960.255(d)]**

The PHA may, but is not required to, establish a policy to offer a qualified family paying income-based rent an ISA instead of being given the EID.

#### LACDA Policy

The LACDA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

## **6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]**

Annual income includes “net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.” Any annual/interim, reexamination, new admission, or unit transfer with an effective date of January 1, 2025, or thereafter, rule will be applied accordingly.

### LACDA Policy

To determine business expenses that may be deducted from gross income, the LACDA 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 herein.

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

### **Business Expansion**

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

### LACDA Policy

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

## **Capital Indebtedness**

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

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

## **Negative Business Income**

### LACDA Policy

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income. LACDA will require proof of negative amount.

## **Withdrawal of Cash or Assets from a Business**

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

### LACDA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, the LACDA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

## **Co-owned Businesses**

### LACDA 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.

## **Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27] Any annual/interim, reexamination, new admission, or unit transfer with an effective date of January 1, 2025, or thereafter, rule will be applied accordingly.

## **6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students.

### **Types of Assistance**

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.



The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

### **Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the Higher Education Act (HEA) from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income. Any annual/interim, reexamination, new admission, or unit transfer with an effective date of January 1, 2025, or thereafter, rule will be applied accordingly.

#### LACDA Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the LACDA will exclude the full amount of the assistance received under Title IV from the family's annual income. The LACDA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the LACDA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The LACDA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The LACDA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

**Example 1**

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the LACDA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

**Example 2**

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the PHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

### **Example 3**

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

### **Example 4**

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

## **6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

Any annual/interim, reexamination, new admission, or unit transfer with an effective date of January 1, 2025, or thereafter, rule will be applied accordingly.

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

#### LACDA Policy

The LACDA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

If the delayed-start payment is received outside of the time the LACDA is processing an annual reexamination, then the LACDA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the LACDA will conduct an interim in accordance with LACDA policies in Chapter 9. If not, the LACDA will consider the amount when processing the family's next annual recertification.

## **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

## **Social Security Benefits [Notice PIH 2023-27]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, the PHA will factor in the COLA increase when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27].

### LACDA Policy

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the LACDA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. The LACDA will require proof of overpayment. Further, if a family’s social security income is garnished for any reason (i.e., child support), the LACDA will use the gross amount in order to calculate the family’s income.

## **Alimony and Child Support**

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

### LACDA Policy

The LACDA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The LACDA will count court-awarded amounts for alimony and child support unless the family certifies and the LACDA verifies that the payments are not being made.

In order to verify that payments are not being made, the LACDA will review child support payments over the last 12 months.

If payments are being made regularly, the LACDA will use the amount received during the last 12 months (If payments have been made for a period less than 12 months, the LACDA will average all payments that have been made.

## **6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

**Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.**

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by Federal, State, or local governments.

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

#### LACDA Policy

The LACDA will not reduce the public housing rent for families whose welfare assistance is reduced specifically because of:

Fraud; or

Failure to participate in an economic self-sufficiency program; or

Noncompliance with a work activities requirement.

However, the LACDA will reduce the rent if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits; or

A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, such as:

The family has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits; or

If the family was sanctioned prior to new admissions.

### ***Covered Families***

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

### ***Imputed Income***

#### LACDA Policy

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the LACDA will include in annual income “imputed” welfare income. The LACDA will request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the

welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements, or the family member was sanctioned prior to new admission. [24 CFR 5.615(b)(2)].

### ***Offsets***

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

The imputed welfare will be recorded on the HUD Form 50058 (Family Report).

### **6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other State or Federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the ***assisted family who has a disability to reside in the family's assisted*** unit. *Payments to a family member for caregiving services for someone who is **not a member of the assisted family** (such as for a relative that resides elsewhere) will be included in the annual income.*

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.



## **6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

## **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]**

Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.

- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred **e.g.**, special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].
- Guaranteed Basic Income Programs, such as the Los Angeles County’s “BREATHE” program, a monthly supplemental income that provides household with financial stability. Guaranteed Basic Income Programs traditionally provide temporary, unconditional, individual, and regular cash payments intended to support the basic needs of the recipient.

- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

#### LACDA Policy

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

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

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

End of participation in a training program must be reported in accordance with the LACDA’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
- (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
- (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) 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)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) 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)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

## PART II: ASSETS

### 6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations *do not* list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

#### LACDA Policy

The LACDA will require the necessary information to determine the **current** cash value, (the net amount the family would receive if the asset were converted to cash).

Verification forms, letters, or documents from a financial institution or broker.

Passbooks, the most recent investment report/statement for the checking and savings certificates of deposit, bonds, or financial statements completed by a financial institution or broker.

Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.

Real estate tax statements if the approximate current market value can be deduced from assessment.

Financial statements for business assets.

Copies of closing documents showing the selling price and the distribution of the sales proceeds.

Estimate of personal property held as an investment.

Verification forms from a financial institution or broker.

Although the LACDA will accept the family's estimated value of personal property held as an investment, the LACDA may require the additional information necessary to determine the current cash value (the net amount the family would receive if the asset were converted to cash), and/or obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal. The LACDA may incur the cost of the appraisal on behalf of the household or assign an appraiser at the LACDA's expense and at a reasonable cost.

When additional information is requested by the LACDA, the household must provide the LACDA with acceptable, written third-party verification documents to verify the value of

or income from an asset. A written third-party verification document is considered current if at the time of **receipt** of the document is:

- A monthly statement not more than 60 days old, or
- The most recent quarterly statement, or
- A savings passbook that has been updated by the financial institution within the last 60 days, or
- The most recent annual statement, or
- The most recent document or statement issued to the family, including but not limited to a closing escrow statement or closing bank statement.

#### **6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]**

The PHA will include the value of any business or family assets disposed of by an applicant or participant 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 or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

##### ***Minimum Threshold***

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations*, p. 24].

##### LACDA Policy

The LACDA will not include the value of assets disposed of for less than fair market value during the two years preceding certification or recertification, **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.

##### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

##### LACDA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.



### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### ***Asset Owned by a Business Entity***

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

### ***Family Declaration***

#### LACDA Policy

Families must sign a declaration under penalty of perjury 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 LACDA will verify the value of the assets disposed of if other information available to the LACDA does not appear to agree with the information reported by the family.

## **6-II.C. ASSET INCLUSIONS AND EXCLUSIONS**

### ***Checking and Savings Accounts [Notice PIH 2023-27]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not necessarily personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

### ***ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA will exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

LACDA Policy

The LACDA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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

### ***Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]***

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets.

HUD defines *necessary personal property* as items **essential** to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. *Necessary personal property does not include bank accounts, other financial investments, or luxury items.* Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
<p>Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</p> <p>Furniture, carpets, linens, kitchenware</p> <p>Common appliances</p> <p>Common electronics (e.g., radio, television, DVD player, gaming system)</p> <p>Clothing</p> <p>Personal effects that are not luxury items (e.g., toys, books)</p> <p>Wedding and engagement rings</p> <p>Jewelry used in religious/cultural celebrations and ceremonies</p> <p>Religious and cultural items</p> <p>Medical equipment and supplies</p> <p>Health care-related supplies</p> <p>Musical instruments used by the family</p> <p>Personal computers, phones, tablets, and related equipment</p> <p>Professional tools of trade of the family, for example professional books</p> <p>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</p> <p>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</p>	<p>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</p> <p>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</p> <p>Recreational boat/watercraft</p> <p>Expensive jewelry without religious or cultural value, or which does not hold family significance</p> <p>Collectibles (e.g., coins/stamps)</p> <p>Equipment/machinery that is not used to generate income for a business</p> <p>Items such as gems/precious metals, antique cars, artwork, etc.</p>

LACDA Policy

In determining the value of non-necessary personal property, the LACDA will use the family’s estimate of the value. The LACDA may obtain an appraisal if there is reason to believe that the family’s estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA will consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

LACDA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

### ***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, the LACDA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

#### **LACDA Policy**

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

### ***Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]***

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the LADCA will not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.



Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

### ***Asset Exclusions [24 CFR 5.603(b)]***

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

## 6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

### *Net Family Assets*

*Net family assets* are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

#### LACDA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

### ***Actual Income from Assets***

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### ***Imputed Income from Assets***

When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## PART III: ADJUSTED INCOME

### 6-III.A. INTRODUCTION

#### Overview

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

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

(a) *Mandatory deductions*

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
  - (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
- (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

#### Anticipating Expenses

##### LACDA Policy

Generally, the LACDA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the LACDA 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 LACDA 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 LACDA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the LACDA will include those expenses anticipated to be incurred during the 12 months following the certification date

which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

### **6-III.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

### **6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

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

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

### **6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]**

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

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

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

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.”

Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

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

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

##### LACDA Policy

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

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

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

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

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

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

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

#### LACDA 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 LACDA 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 LACDA 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. [New PH OCC GB, *Income Determination*, p. 28].

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

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



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

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

#### LACDA Policy

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

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

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

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

### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### LACDA Policy

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

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

#### LACDA Policy

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

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

## **6-III.F. CHILDCARE EXPENSE DEDUCTION**

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

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

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

### **Qualifying for the Deduction**

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

##### LACDA Policy

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

In evaluating the family’s request, the LACDA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### **Seeking Work**

##### LACDA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the childcare expense being allowed by the LACDA.

## **Furthering Education**

### LACDA Policy

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

## **Being Gainfully Employed**

### LACDA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

## **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

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

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, childcare expenses are limited to \$5,000.

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

### LACDA Policy

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

## **Eligible Child Care Expenses**

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

## **Allowable Child Care Activities**

### LACDA Policy

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

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

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

## **Necessary and Reasonable Costs**

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

### LACDA Policy

As a discretionary policy, the LACDA hereby defines financial hardship as the following circumstances for purposes of determining eligibility for a hardship exemption.

- Temporary loss of income for a period not to exceed 90 calendar days and childcare is still necessary;
- Increase in utility rates (that exceed the HUD established threshold for implementing the new rates and allowances);
- Adult family member(s) participating in higher education/vocational training and other adult members in the home are unable to care for the minor(s);
- Expense is necessary to continue the child's enrollment at the childcare facility or in accordance with their childcare contract; or
- Increase in childcare expense and the increase is in excess of 40 percent of the family's annual adjusted income.

The LACDA will require the family to request the financial hardship in writing within ten (10) calendar days from the loss in deduction, resulting in financial hardship and inability to pay rent.

The LACDA will obtain third-party verification to determine the family's financial hardship resulting in their inability to pay rent. The exemption will be granted for a period of 90 calendar days. The family's hardship exemption ends when the circumstances that made the family eligible for the exemption are no longer applicable or after 90 days, whichever comes earlier.

## **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

### ***Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]***

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

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

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

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

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

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of ten (10) percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

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

#### LACDA Policy

New admissions and existing families previously not receiving the allowable deduction will automatically be applied the mandated 10 percent and will not be eligible for the phased-in relief.

The LACDA will track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in will continue for families who transfer to another unit or public housing development within the LACDA.

The LACDA will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

## ***General Relief***

The second category is for families that can demonstrate:

- Their health/medical care and/or reasonable attendant care & auxiliary apparatus expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health/medical and/or reasonable attendant care & auxiliary apparatus deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that the PHA develop policies defining what constitutes a hardship for purposes of this exemption.

### LACDA Policy

The LACDA is hereby defining hardship as circumstances limited to the following:

- Circumstances where the family experiences a loss of income and is expected to continue for an undetermined period;
- Imputed welfare (excluding fraud); or
- Increase in utility rates (for Public Housing only)

An elderly or disabled family or a family that includes a person with disabilities may request a hardship exemption to the limitations above when the family experiences a financial hardship due to the change in this regulation. The LACDA reasonable accommodation processes will apply.

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health/ medical, reasonable attendant care & auxiliary apparatus expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. LACDA currently refers to the Internal Revenue Service (IRS) Publication 502 definition for medical, dental expenses, etc., and may be amended from time to time by the IRS.

The LACDA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with LACDA's policies.

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

- The family is awaiting an eligibility determination for a Federal, State, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or Federal/State declared disaster; or
- Other circumstances as determined by the LACDA.

The family must provide third-party verification of the hardship **with the request**. If third-party verification is not available, the LACDA will require the family to complete a declaration under penalty of perjury stating the facts, including the reasons they cannot provide proof/third. Staff will document the resident's file with the reason(s) and attempts to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The LACDA will notify the family in writing within ten (10) calendar days of the determination regarding the change in the determination of adjusted income and the family's rent resulting from hardship exemptions, and when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

If the LACDA **denies** the hardship exemption request, the LACDA will notify the family in writing within ten (10) calendar days from the determination. Denial notice will state that if the family does not agree with the LACDA determination, the family may request a hearing within ten (10) calendar day from the date of the notice.

If the family **qualifies** for an exemption, the LACDA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension (not to exceed 180 calendar days) based on family circumstances.

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

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the LACDA may, at its discretion, extend the relief for one more 90-day period while the family's hardship condition continues, not to exceed 180 calendar days.

The family may request an extension in writing prior to the end of the hardship exemption period. The LACDA will extend relief for an additional 90-days if the family demonstrates that the family continues to qualify for the hardship exemption based on circumstances described above LACDA will require updated third-party verification based on the family's current circumstances.

Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. **Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.** At any time, the LACDA may *terminate* the hardship exemption if the LACDA is in receipt of information and determines that the family no longer qualifies for the exemption.



### ***Childcare Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]***

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

The PHA established what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or require the family to complete a declaration of facts under penalty of perjury when third-party verification is not available and will document the resident's file the reason third-party verification was not available. PHAs will attempt to obtain third-party verification *prior* to the end of the 90-day hardship exemption period.

#### LACDA Policy

The LACDA will require the family to request the financial hardship in writing within ten (10) calendar days from the loss in deduction, resulting in financial hardship and inability to pay rent.

The LACDA will obtain third-party verification to determine the family's financial hardship resulting in their inability to pay rent. The exemption will be granted for a period of 90 calendar days. The family's hardship exemption ends when the circumstances that made the family eligible for the exemption are no longer applicable or after 90 days, whichever comes earlier.

As a discretionary policy, the LACDA hereby defines financial hardship as the following circumstances for purposes of determining eligibility for a hardship exemption.

- Temporary loss of income for a period not to exceed 90 calendar days and childcare is still necessary;
- Increase in utility rates (that exceed the HUD established threshold for implementing the new rates and allowances);
- Adult family member(s) participating in higher education/vocational training and other adult members in the home are unable to care for the minor(s);
- Expense is necessary to continue the child's enrollment at the childcare facility or in accordance with their childcare contract; or
- Increase in childcare expense and the increase is in excess of 40 percent of the family's annual adjusted income.

Upon receipt of the family's hardship request, the LACDA will notify the family in writing within 30 calendar days of the determination of the request. If the request is approved, the LACDA will inform the family in writing of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice will also state the requirement for the family to report to the LACDA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27]. If the family's rent increases, the LACDA will issue a 30-day notice of increase in rent.

If the request is denied, the LACDA will inform the family in writing the reason(s) why the family does not qualify for the hardship exemption [24 CFR 5.611(e)(2)]. If the family's rent increases, the LACDA will issue a 30-day notice of increase in rent.

### **6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(i)]**

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the ACOP. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA establish a written policy for such deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than \$90,000 per year.

#### LACDA Policy

The LACDA has opted not to use permissive deductions.

### **6-III.I DE MINIMIS ERRORS IN INCOME DETERMINATIONS**

#### LACDA Policy

In accordance with HUD, the LACDA must take corrective action to credit or repay a family if the family was overcharged tenant rent because of de minimis errors in calculating family income. However, the LACDA must not implement local policies to require a family to repay in instances resulting in a family being undercharged for rent when the PHA miscalculated the family's income.

De minimis is defined as a PHA calculation error of \$30 or less of the family's monthly adjusted income (or \$360 in annual adjusted income). The provision enables the LACDA to make a de minimis error income determination on a family-by-family basis rather than having HUD conduct a full portfolio review if the LACDA exceeds the threshold.

As required by HUD, under a corrective action, the LACDA will grant the family credit toward future rents when it is discovered that there is a rent overcharge due to an administrative error calculation. The family is issued a credit retroactively to the effective date of the action when the error was made, regardless of the dollar amount associated with the administrative error.

## PART IV: CALCULATING RENT

### 6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's Total Tenant Payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which is paid directly to the family by the PHA.

#### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the TTP for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA.

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

#### ***Welfare Rent [24 CFR 5.628]***

##### LACDA Policy

Welfare rent does not apply in this locality.

#### ***Minimum Rent [24 CFR 5.630]***

##### LACDA Policy

The minimum rent is \$50. The minimum rent refers to a minimum total tenant payment and not a minimum tenant rent.

### **Procedures for Notification to Families of Hardship Exceptions**

##### LACDA Policy

The LACDA will notify those participant families subject to a minimum rent of their right to request a minimum rent hardship exception under the law. The LACDA will notify all families at the annual recertification of their right to request a minimum rent hardship exception.

The LACDA notification will advise the family that hardship exception determinations are subject to LACDA grievance procedures.

The LACDA will review all resident requests for exception from the minimum rent due to financial hardships. Refer to section.

## 6-IV.B. CHOICE IN RENTS

All requests for minimum rent exception are required to be submitted in writing and in a legible written format. A resident may request as an accommodation to submit the document in an alternative format. Requests for minimum rent exception must state the family circumstances that qualify the family for an exception.

### LACDA Policy

#### *Exceptions to Minimum Rent*

The LACDA will immediately grant the minimum rent exception to all families who request it. The minimum rent will be suspended until the LACDA determines whether the hardship is: Covered by statute OR

Temporary/long-term.

If the LACDA determines that the minimum rent is not covered by statute, the LACDA will impose a minimum rent including payment for minimum rent from the time of suspension.

#### *Repayment Agreements for Temporary Hardship*

The LACDA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period.

If the family owes the LACDA money for rent arrears incurred during the minimum rent period, the LACDA will require that the family pay an initial lump sum (in an amount determined by the LACDA) with the remaining balance to be repaid in equal payments over a period of time not to exceed 12 months under \$2400 or 24 months for any amount in excess of \$2400.

Minimum rent arrears that are less than \$50 will be required to be paid in full the first month following the end of the minimum rent period.

The LACDA's policies regarding repayment agreements are further discussed in the chapter entitled "Family Debts to the LACDA."

## **Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]**

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

### LACDA Policy

The LACDA opt not to adopt optional changes to income-based rents.

## **Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]**

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

### LACDA Policy

The LACDA chooses not to use ceiling rents

## **Flat Rents**

### LACDA Policy

The LACDA has established, for each dwelling unit in public housing a flat rental amount, which:

Is based on the HUD established Small Area Fair Market Rents (SAFMR); and

Any change in the Flat Rent schedule due to changes initiated by HUD to the SAFMR will not be considered a “significant change” to the Annual/Agency Plan; and

Is designed so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

The LACDA shall review the income of families paying flat rent not less than once every three years.

### **Utility Reimbursement [24 CFR 982.514(b); 982.514]**

Utility Reimbursement Payment (URP) occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

### LACDA Policy

If there is URP, the LACDA shall pay the URP directly to the resident, via a pre-paid card. The LACDA will make all URPS to qualifying families on a monthly basis.

## 6-IV.C. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

### Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

### HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

#### LACDA 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 has lost or waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted as a result of the imposition of the minimum rent requirement
- (3) Family income has decreased because of changed family circumstances, including the loss of employment due to no fault of their own.
- (4) A death has occurred in the family.

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

- (5) The family has experienced other circumstances determined by the PHA.

#### LACDA Policy

The LACDA has not established any additional hardship criteria.

## Implementation of Hardship Exemption

### Determination of Hardship

When a family requests a financial hardship exemption, the PHA will suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

#### LACDA Policy

The LACDA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b>			
Assume the PHA has established a minimum rent of \$50.			
<b>Family Share – No Hardship</b>		<b>Family Share – With Hardship</b>	
\$0	30% of monthly adjusted income	\$0	30% of monthly adjusted income
\$15	10% of monthly gross income	\$15	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
\$50	Minimum rent	\$50	Minimum rent
Minimum rent applies. TTP = \$50		Hardship exemption granted. TTP = \$15	

#### LACDA 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 LACDA will make the determination of hardship within 30 calendar days.



## **No Financial Hardship**

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

### LACDA Policy

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

## **Temporary Hardship**

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

### LACDA Policy

The LACDA will enter into a repayment agreement in accordance with the LACDA's repayment agreement policy.

The LACDA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period.

If the family owes the LACDA money for rent arrears incurred during the minimum rent period, the LACDA will require that the family pay an initial lump sum (in an amount determined by the LACDA) with the remaining balance to be repaid in equal payments over a period of time not to exceed 12 months under \$2400 or 24 months for any amount in excess of \$2400.

Minimum rent arrears that are less than \$50 will be required to be paid in full the first month following the end of the minimum rent period.

## **Long-Term Hardship**

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

### LACDA Policy

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

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

## **6-IV.D. UTILITY ALLOWANCES [24 CFR 965, Subpart E]**

### **Overview**

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA will apply the utility allowance applicable to the type (i.e., unit site, location, etc). of dwelling unit leased by the family.

### **Resident-Paid Utilities**

#### LACDA Policy

The following requirements apply to residents living in developments with resident-paid utilities or applicants being admitted to such developments:

New residents are required to change the utility services under the head-of-household by the LACDA's designated due date.

Paying the utility bill is the resident's obligation under the lease. Failure to pay utilities is grounds for eviction.

### **Resident Responsibility for Appliances**

#### LACDA Policy

Residents who are responsible for providing one or more appliance(s) are also responsible for the maintenance and upkeep of such appliance(s). Failure to maintain such appliance(s), as specified in the Lease Agreement, is grounds for termination of tenancy.

If the LACDA provides the tenant the range and/or refrigerator, and the tenant chooses to install his/her own appliance(s) after the initial term of lease, the utility allowance credit will not be provided for the appliance(s).

### **Reasonable Accommodation and Individual Relief**

On request from a family, the PHA will approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Further, the PHA **may** grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation about the additional allowance required.

#### LACDA Policy

The family must request in writing the higher allowance (reasonable accommodation and/or individual relief) and provide the LACDA with information about the amount of additional allowance required.

The LACDA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the LACDA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family must provide information from the manufacturer of the equipment, or the family or LACDA may conduct an internet search for an estimate of usage or additional monthly cost.

At its discretion, the LACDA may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular annual reexamination.

If the excessive consumption is caused by a characteristic of the unit or LACDA -supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

### **Utility Allowance Revisions [24 CFR 965.507]**

The PHA reviews at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, to establish revised allowances.

The Utility allowance is intended to help defray the cost of utilities not included in the rent. The allowances are based on the monthly cost of reasonable consumption utilities in an energy conservative household, *not* on a family's actual consumption.

The PHA will revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of ten (10) percent or more from the rates on which such allowances were based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)].

### LACDA Policy

Between annual reviews of utility allowances, the LACDA will only revise its utility allowances due to a rate change, when required to by the regulation. Updated Utility Allowance Schedules will be posted in conspicuous areas of the management offices at the LACDA's public housing developments.

### *Excess Utility Payments*

Residents in units where the LACDA pays the utilities may be charged for excess utilities if additional appliances or equipment are used in the unit. This charge shall be applied as specified in the lease. [24CFR 966.4(b)(2)]

### *Resident-Paid Utilities*

The following requirements apply to residents living in developments with resident-paid utilities or applicants being admitted to such developments:

- New residents are required to change the utility services under the head-of-household by the LACDA's designated due date.
- Paying the utility bill is the resident's obligation under the lease. Failure to pay utilities is grounds for eviction.
- Resident Responsibility for Appliances
- Residents who are responsible for providing one or more appliance(s) are also responsible for the maintenance and upkeep of such appliance(s). Failure to

maintain such appliance(s), as specified in the Lease Agreement, is grounds for termination of tenancy.

- If the LACDA provides the tenant the range and/or refrigerator, and the tenant chooses to install his/her own appliance(s) after the initial term of lease, the utility allowance credit will not be provided for the appliance(s).

#### **6-IV.E. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. Except for non-public housing over income families, the PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the PHA must:

- (1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
- (2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- (3) Multiply the member maximum subsidy by the number of eligible family members.
- (4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
- (5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.
- (6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

## 6-IV.F. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

### Flat Rents [24 CFR 960.253(b)]

#### LACDA Policy

The LACDA has established, for each dwelling unit in public housing, a flat rental amount for the dwelling unit, which:

Is based on the HUD established Small Area Fair Market Rents (SAFMR); and

Any change in the Flat Rent schedule due to changes initiated by HUD to the SAFMR will not be considered a “significant change” to the Annual/Agency Plan; and

Is designed so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

The LACDA shall review the income of families paying flat rent not less than once every three years. For those families that choose to pay the Flat Rent, the amount the family pays **are not locked in for the three (3) year period**. Instead, the LACDA revises the flat rent amount **annually** based on HUD’s SAFMR’s. Families currently paying the flat rent amount will be offered the choice between the updated annual flat rent amount, and the previously calculated income-based rent. For families that elect to pay flat rent, the LACDA will conduct a reexamination of family income at least once every 3 years, not annually.

### Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, the PHA will offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

#### LACDA Policy

The LACDA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The LACDA must provide sufficient information for families to make an informed choice, return the completed form prior to the LACDA reporting the family’s choice of rent to HUD. This information must include the LADCA’s policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the LACDA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

During the annual recertification process, the family will be provided with a choice of rent form. The form will state the flat rent and income-based estimates based the family’s income information reported in the annual reexamination. This form **must** be completed, signed, dated by the family, and returned by the established due date. LACDA will retain a copy in the resident’s annual reexamination packet and will report the family’s choice of rent on the HUD 9886 form (Code 2 or 7).

## **Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]**

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA will immediately allow the family to switch from flat rent to the income-based rent.

### LACDA Policy

The LACDA will verify all hardship situations. Upon determination by the LACDA that a financial hardship exists, the LACD will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance.
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items.
- Such other situations determined by the LADCA to be appropriate.

### LACDA Policy

The LACDA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

### *LACDA's Flat Rent Methodology*

The LACDA has set a flat rent for each public housing unit, based on the HUD established annual SAFMR. The following methodology will be utilized to determine and implement flat rents:

1. In accordance with Congressional and HUD requirements, the LACDA will set the Flat Rent for each public housing unit at no less than 80 percent of the applicable Small Area Fair Market Rent (SAFMR) as set by HUD for the Housing Choice Voucher program and adjusted to account for reasonable utilities costs. The Flat Rent will be the SAFMR less the UA as set for each dwelling unit.
2. Changes to the Flat Rent schedule due to changes initiated by HUD to the SAFMR will not be considered a "significant change" to the Annual/Agency Plan.
3. The new Flat Rent will be phased in if needed to ensure that any family currently paying Flat Rent will not experience a rental increase of more than 35% due to the change in the Flat Rent schedule.
4. The LACDA presents two options to the family:
  - a. The updated flat rent amount; and
  - b. The income-based rent.

## **Flat Rents and Earned Income Disallowance [A&O FAQs]**

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless of whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.



**EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION**

**24 CFR 5.609**

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

*(b) Annual income does not include the following:*

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

- 1) The Federal government;
- (2) A State, Tribe, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (
- 3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)€ of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such

accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

## EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective

legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

**EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION**

**24 CFR 5.615**

**Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

*(a) Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

*(b) Definitions.* The following definitions apply for purposes of this section:

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

*Economic self-sufficiency program.* See definition at Sec. 5.603.

*Imputed welfare income.* The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

*Specified welfare benefit reduction.*

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) “Specified welfare benefit reduction” does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

*(c) Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

*(d) Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also

state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

*(e) PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.



## CHAPTER 7

### VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2023-27]

#### INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

**Part I: General Verification Requirements.** This part describes the general verification process.

**Part II: Verifying Family Information.** This part provides more detailed requirements related to family information.

**Part III: Verifying Income and Assets.** This part provides information on income and assets.

**Part IV: Verifying Mandatory Deductions.** This part covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.



## **PART I: GENERAL VERIFICATION REQUIREMENTS**

### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]**

#### **Consent Forms**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886-A, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

## **Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]**

All adult applicants and tenants must sign revised form **HUD-9886-A**, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form **HUD-9886-A** at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form **HUD-9886-A** be signed only once.

Effective January 1, 2024, current program participants must sign and submit a new Form **HUD-9886-A** at their next interim or annual reexamination. This form will only be signed once. A subsequent Form **HUD-9886-A** will only be submitted to the PHA under the following circumstances:

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

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

### LACDA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886-A at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

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

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

## **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA must deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the PHA's grievance procedures.

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

### LACDA Policy

In order for a family or family member(s) to revoke their consent, they must provide written notice to the LACDA. The LACDA will deny admissions or terminate assistance due to the revocation of consent. The LACDA will afford the Head of Household (HOH) the opportunity to remove the family member who revokes the consent. If the family member revoking the consent is the HOH, the entire family will be denied admission or terminated.

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

Revocation of Consent Form (HUD-9886A): The LACDA will deny admissions or terminate assistance due to the revocation of consent. The LACDA will afford the Head of Household (HOH) the opportunity to remove the family member who revokes the consent. If the family member revoking the consent is the HOH, the entire family will be denied admission or terminated.

## **7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS (SAFE HARBOR) [24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

### LACDA Policy

The LACDA elected to adopt HUD's "Safe Harbor" discretionary policy and will accept and use determinations of income from the federal means-tested forms of assistance listed below when all documentation requirements below are satisfied. The LACDA will accept and use determinations of income from the federal means-tested forms of assistance listed above during New Admission/Move-Ins, Interim Reexamination, and the Annual Reexaminations. In situations where the family presents multiple verifications from the same or different acceptable Safe Harbor programs, the LACDA will accept the most recent, detailed, and comprehensive income determination provided.

### **Means-tested federal public assistance programs include:**

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

The third-party verification **must** state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using **Safe Harbor** to verify a family's income, PHA will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The **Safe Harbor** documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA and document includes:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHA are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA for purposes of the HOTMA Safe Harbor provision. PHAs are **not permitted** to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain **Safe Harbor** documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a **Safe Harbor** determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

### LACDA Policy

The LACDA elected to adopt the Safe Harbor discretionary policy. When available and applicable, the LACDA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The LACDA will still require third-party verification of all deductions such as the health and medical care expense or childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or childcare expense deductions, where applicable, the LACDA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the LACDA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the LACDA will obtain third-party verification of all sources of income and assets (as applicable).

The LACDA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the LACDA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;

- State the family size;

- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the LACDA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the LACDA will revert to third-party verification of income for the family.



When families present multiple verifications from the same or different acceptable Safe Harbor programs, the LACDA will use the most recent income determination, unless the family presents acceptable evidence that the LACDA should consider an alternative verification from a different Safe Harbor source.

When the LACDA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the LACDA. Depending on when the change occurred, the change may or may not impact the LACDA's calculation of the family's total annual income. Changes that occur between the time the LACDA receives the Safe Harbor documentation, and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the LACDA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, the LACDA will use third-party verification to verify the change.

## **7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security (SS) and Supplemental Security Income (SSI) benefits, public and private pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

## LACDA Policy

At least 90 percent of the household's annual income must be from fixed income source to be eligible for the Streamline Annual Recertification (SAR). If 90 percent or more of a family's unadjusted income is from fixed income sources:

Fixed Income families will receive the SAR packet during subsequent years of the streamline process and will receive the full annual recertification packet at least once every three (3) year thereafter. The LACDA will document in the file how the determination is made that a source of income is fixed income.

The LACDA will streamline the annual reexamination process by applying the verified COLA or rate of interest to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, the LACDA will obtain third-party verification of any new sources of fixed income.

In the following circumstances, regardless of the percentage of income received from fixed sources, the LACDA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed \$50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available; and

During the admission process and at least once every three (3) years thereafter.

### 7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

Level Six (6):	(Highest) Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system.
Level Five (5):	(Highest) Up-front Income Verification (UIV) using a non-EIV system
Level Four (4):	(High) Written third-party verification from the source plus EIV
Level Three (3):	(Medium) Written third-party verification form
Level Two (2):	(Low) Oral third-party verification
Level One (1):	(Low) Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

#### **File Documentation**

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

#### LACDA Policy

At all times, should the LACDA not obtain Levels 6, 5, 4, 3 or 2 of the verification hierarchy, the LACDA staff must document why such verifications at each level were not obtained and the verification method utilized to substantiate the information.

All applicant and tenant-provided documents are current if dated within 120 days of the date of receipt.

## **7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information, and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

### **EIV Income and IVT Reports**

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination.

The EIV Income and IVT Reports are not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual or interim reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

#### LACDA Policy

The LACDA will obtain EIV Income and IVT reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The LACDA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual or interim reexamination.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents for the duration of tenancy. When the LACDA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

#### **New Hires Report [Notice PIH 2023-27]**

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at the annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

#### LACDA Policy

In accordance with LACDA policies in Chapter 9, the LACDA does not process interim reexaminations for families who have increases in earned income. Except for instances in which the LACDA uses Safe Harbor income determinations to determine a family's annual income, the LACDA will only review the New Hires Report at annual reexamination.

## **Income Validation Tool (IVT) Report**

HUD requires that the PHA use the IVT to identify participants who passed the SSA identity test, but no income (i.e., wages, SSI/SS Benefits, Unemployment Benefits) information was reported by either U.S. Department of Human and Health Services (HHS) or SSA records. This scenario does not mean that the resident does not have any income. For example, residents may have other income not verifiable through EIV (i.e., TANF, General Relieve, Gig Income, etc.). PHAs obtain written, third-party verification of any income reported by the resident. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

### LACDA Policy

The LACDA will generate the EIV Household Report quarterly to determine if income has been reported by *HHS or SSA Report* quarterly and will retain the report in a secured (locked) designated location at each of the management offices.

The LACDA will re-verify the status of residents identified on the report quarterly. Based on the information provided by the family and in EIV, the LACDA will require that family members provide verifications or sign release forms in order to obtain additional verification.

When the LACDA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

## **EIV Identity Verification Report**

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a resident fails, a message will be displayed within the EIV system, and no income information will be displayed.

### LACDA Policy

The LACDA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The LACDA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When the LACDA determines that discrepancies exist as a result of LACDA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

In order to prevent program abuse, the LACDA will require applicants to furnish verification of legal identity for all family members. If a document submitted by a family is illegible or otherwise questionable, more than one of the acceptable documents may be required

## **Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]**

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

### LACDA Policy

The LACDA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The LACDA must conduct a home visit to determine if anyone is residing in the unit.

PHAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the LACDA legally regained possession of the unit, whichever occurs first.

When the only remaining, household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The LACDA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

## **Other EIV Reports [Notice PIH 2023-27]**

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

### **Upfront Income Verification Using Non-HUD Systems**

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

### LACDA Policy

The LACDA will utilize up-front income verification tools. The use of the EIV system is mandatory and will be used whenever possible. Other UIV systems, such as the Department of Social Services (DPSS) LEADER system for the verification of DPSS benefits and the Work Number, will be used whenever possible when EIV is unavailable.

If there is a difference in source of income or a substantial difference in reported income between EIV verification and family-provided documents and the tenant disputes the discrepancy or cannot provide adequate documentation to validate the discrepancy, the LACDA shall follow the guidelines below:

The LACDA will send written third-party verification forms directly to the disputed income source.

The LACDA may review historical income data for patterns of employment, paid benefits, and/or receipt of other income, when the LACDA cannot readily anticipate income, such as in the cases of seasonal employment, unstable working hours, and suspected fraud.



The LACDA will analyze all data (UIV data, third party verification documents provided by the family and verification forms returned by the disputed income source) and attempt to resolve the income discrepancy.

The LACDA will use the most current information available to calculate the anticipated annual income.

In cases where UIV income data is different than tenant-reported income and the tenant does not dispute the discrepancy and can provide adequate documentation to validate the discrepancy, the LACDA will use the written third-party documents provided by the family to calculate the anticipated annual income.

#### **7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

##### **EIV + Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

##### LACDA Policy

At annual reexamination, if there are no reported changes to an income source, the LACDA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The LACDA will use an average of the last two quarters of income listed in EIV to determine income from employment. The LACDA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the LACDA will use written third-party verification from the source as outlined below.

The LACDA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

##### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, earning statements, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules (IRS Form 1040, including: Schedule C (Small Business), Schedule E (Rental Property Income), or Schedule F (Farm Income)) attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, **two (2)** current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two (2) pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one (1) current bank statement that reflects the current balance of banking/financial accounts. Refer to assets equal to or under \$50,000 for asset verification requirements.

#### LACDA Policy

In general, the LACDA will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used;
- For all new admissions; and
- For all interim reexaminations.

The LACDA will not use this method if the LACDA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the LACDA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The LACDA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the LACDA determines that third-party documents provided by the family are not acceptable, the LACDA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the LACDA will obtain one (1) current bank statement that reflects the current balance of the account.

When pay stubs are used, the LACDA will require the family to provide the two (2) most current, consecutive pay stubs. At the LACDA's discretion, if additional paystubs are

needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the LACDA may request additional paystubs or a payroll record.

### **7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023-27]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." The PHAs will send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification.

#### LACDA Policy

Typically, the LACDA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

The LACDA will send verification forms directly to third party sources when:

There is a difference in source of income or a substantial difference in reported income between EIV verification and family-provided documents;

There is a discrepancy between EIV/UIV, and tenant-reported income and the tenant disputes the information in EIV;

Tenant disputes the discrepancy or cannot provide adequate documentation to validate the discrepancy;

If the tenant provided documents are unacceptable by the LACDA (i.e., altered, mutilated, or is not legible); or

Verification levels six through four are unavailable.

LACDA staff must document the date the verification forms were sent (i.e., mailed/fax) directly to the third party and date received by the LACDA. The third-party verification form must include a copy of the valid and signed form HUD- 9886-A, Authorization for Release of Information.

## **7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

### LACDA Policy

In general, the LACDA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, or established due date, the LACDA will attempt to obtain oral third-party verification, the LACDA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

The County of Los Angeles Child Support Services Department no longer responds to written or oral third-party verification requests by the LACDA.

### **Primary Documents**

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### **7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets is equal or less than \$50,000. However, the PHA will request at least one (1) current bank statement from the household every three (3) years when verifying assets.
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

#### LACDA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the LACDA.

The LACDA may require a family to certify under penalty of perjury that a family member does not receive a particular type of income or benefit.



**PART II: VERIFYING FAMILY INFORMATION**

**7-II.A. VERIFICATION OF LEGAL IDENTITY**

LACDA Policy

The LACDA will require families to furnish verification of legal identity for each household member.

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
Certificate of Birth, Naturalization Documents Current, Valid Driver’s License or Department of Motor Vehicle Identification Card U.S. Military Discharge (DD 214) Current U.S. Passport Foreign Consulate Identification Cards (FCICs) approved by the Los Angeles County Board of Supervisors for the purpose of verifying identity	Certificate of Birth Adoption Papers Custody Agreement Health and Human Services ID Certified School Records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the LACDA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

## 7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]

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

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA).
- An original SSA-issued document, which contains the name and SSN of the individual.

### LACDA Policy

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

The LACDA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the LACDA within 90 days.

If an **applicant** family includes a child under six (6) years of age who joined the household within the six (6) months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. However, the parent or guardian will be required to sign a form attesting that the child was never issued an SSN. An additional 90-day extension may be granted if the LACDA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a resident requests to add a new household member who is at least six (6) years of age, or who is under the age of six (6) and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of six (6) and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension may be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Social security numbers must be verified only once during continuously assisted occupancy and a copy will be retained in the resident's file.



### **7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth will be required as a form of age verification for all family members.

#### LACDA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the LACDA will require the family to submit other documents that support the reported age of the family member (e.g., matricula, passport, valid driver's license, DD214).

### **7-II.D. FAMILY RELATIONSHIPS**

Applicants and residents are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

#### LACDA Policy

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will be required if certification is insufficient:

#### Verification of relationship:

- Official identification showing names

- Birth certificates

#### Verification of guardianship:

- Court-ordered assignment

- Affidavit of parent

- Verification from social services agency

- School records

#### Evidence of an established family relationship:

- Joint bank accounts or other shared financial transactions

- Leases or other evidence of prior cohabitation

- Credit reports showing relationship

### **Marriage Status**

#### LACDA Policy

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

Verification of a separation may be a copy of court-ordered maintenance or other records.

Verification of marriage status is a marriage or domestic partnership certificate.

## **Absence of Adult Member**

### LACDA Policy

If an adult member who was formerly a member of the household is reported permanently absent by the family or the LACDA has information a member is no longer in the household and not yet reported, the LACDA will consider any of the following as verification:

Husband or wife institutes divorce action

Husband or wife institutes legal separation.

Order of protection/restraining order obtained by one family member against another.

Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.

Statements from other agencies such as social services that the adult family member is no longer living at that location.

If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

If the adult family member is permanently confined to a nursing home, verification is required from the nursing home.

## **Verification of Change in Family Composition**

### LACDA Policy

The LACDA may verify changes in family composition (either reported or unreported) through letters, telephone calls, leases, utility records, inspections, landlords, neighbors, credit data, school or Department of Motor Vehicle (DMV) records, and other sources. Verification of legal custody must be a court-ordered assignment or verification from a social service agency.

## **Foster Children and Foster Adults**

### LACDA Policy

Third-party verification from the State or local government agency responsible for the placement of the individual with the family is required.

## **7-II.E. VERIFICATION OF STUDENT STATUS**

### LACDA Policy

The LACDA requires families to provide information about the student status of all full-time students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a childcare deduction to enable a family member to further their education.

## 7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

### LACDA Policy

Effective July 1, 2023, the LACDA will first attempt to obtain information about disability benefits through HUD's EIV system for family members claiming disability and who are receiving disability benefits from the SSA. If documentation from HUD's EIV System is not available, the LACDA will request a current SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the LACDA will ask the family to either submit a complete verification of disability (VOD) form or request a benefit verification letter by either calling the SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter or VOD form, they will be required to provide it to the LACDA.

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehabilitation specialist, licensed social worker, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability, using the HUD language as the verification format.

## **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

### LACDA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. The LACDA will provide the family member with a Verification of Disability (VOD). The knowledgeable professional must verify whether the family member does or does not meet the HUD definition. See the Eligibility chapter for the HUD definition of disability.

## **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

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

### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

### LACDA Policy

Citizens or Nationals of the U.S. are required to sign a declaration under penalty of perjury. In addition, the family will be required to provide documentation to verify eligible status, such as: U.S. Birth Certificate, U.S. Passport, Certification of Naturalization, or required documentation to verify declared status.

## **Eligible Immigrants**

### **Documents Required**

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

#### ***PHA Verification*** [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

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

#### LACDA Policy

The LACDA will follow all USCIS protocols for verification of eligible immigration status.

### **Non-Citizens with Eligible Immigration Status**

#### LACDA Policy

Member must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The LACDA verifies the status through the USCIS Systematic Alien Verification for Entitlements (SAVE) system. If this primary verification fails to verify status, the LACDA must request within ten (10) days that the USCIS conduct a manual search.

Family members who do not claim to be citizens or eligible immigrants must be listed on a statement of non-contending family members signed by the head of household/co-head and/or spouse/marital-type partner.

### **Non-Citizen Students on Student Visas:**

Non-Citizen students are ineligible members even though they are in the country lawfully. They must provide their student visa, but their status will not be verified, and they do not sign a declaration but are listed on the statement of non-contending members.

### **Failure to Provide**

If an applicant or resident family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member and the tenant's rent portion will be prorated. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

## **Time of Verification**

### LACDA Policy

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. For family members added after other members have been verified, the verification occurs prior to the new member moving in. Once verification has been completed for any covered program, it need not be repeated. The LACDA will also request new immigration documents for those individuals whose immigration documents that prove eligibility has expired.

## **Extensions of Time to Provide Documents**

### LACDA Policy

The LACDA will grant an extension of 30 days for families to submit evidence of eligible immigrant status, or a receipt issued by the USCIS for issuance of replacement documents.

## **Acceptable Documents of Eligible Immigration**

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Foreign Passport with I-551 stamp
- Arrival-Departure Record (I-94) with no annotation accompanied by:
  - A final court decision granting asylum (if no appeal is taken);
  - A letter from an INS or USCIS asylum officer granting asylum (if application is filed on or after 10/1990) or from and INS director granting asylum (application filed before 10/1990);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding of deportation (if application filed on or after 10/1/90)
- Arrival-Departure Record (I-94) stamped with one of the following:
  - “Admitted as a Refugee Pursuant to Section 207”
  - “Section 208” or “Asylum”
  - “Section 243(h)” or “Deportation stayed by Attorney General”
  - “Paroled Pursuant to Section 221(d)(5) of the INS (or USCIS)” Temporary Resident Card (I-688) annotated “Section 245A” or Section “210”
- Employment Authorization Card (I-688B) annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”
- Any official revision of the acceptable documents listed above

- Receipt issued by the USCIS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified.
- A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status will be maintained in the resident file.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

### LACDA Policy

#### *Local Preferences*

1. Homeless families: To qualify for this preference, homeless families must be referred by a Joint Powers Authority (JPA), County agencies or Community Based Organizations (CBOs) with a contract or Memorandum of Understanding (MOU) in place with the LACDA. Additionally, the LACDA will require partner agencies to use a Coordinated Entry System for homeless referrals. The referring agency must provide a certification of the family's homeless status.
2. Residency preference: For families who live, work or have been hired to work in the jurisdiction of the LACDA.

In order to verify that an applicant is a resident in the jurisdiction of the LACDA, the LACDA will require any of the following documents: current rent receipts, leases, utility bills, employer or agency records, school records, driver's licenses, voters registration records, credit reports, statement from household with whom the family is residing. At the LACDA's discretion, verification of residency may also include other documents, certifications, or declarations as needed to verify that a family lives or works in the jurisdiction.

3. Veteran's preference: This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses/marital-type partners of veterans. Acceptable documentation regarding veteran's status will include a DD-214 (discharge documents), proof of receipt of veteran's benefits, or documentation from the Veteran's Administration.





## **PART III: VERIFYING INCOME AND ASSETS**

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

### LACDA Policy

The following policies do not apply when the LACDA uses a safe harbor income determination from a means-tested federal assistance program.

### **7-III.A. EARNED INCOME**

#### **Tips/Bonuses/Commission**

##### LACDA Policy

Unless tip, bonuses, or commission income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified statement under penalty of perjury an estimate of tips received for the prior year, or tips anticipated to be received in the coming year.

#### **Wages**

##### LACDA Policy

When the LACDA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

### **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

#### LACDA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not have to file tax returns, the LACDA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or Door Dash), the LACDA will provide a format for the individual to declare their income and expenses. The LACDA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The LACDA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the LACDA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the LACDA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to 12 months, the LACDA will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

#### **Social Security/SSI Benefits**

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.
- Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

### 7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

#### LACDA Policy

The methods the LACDA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to LACDA request;

Third-party verification form from the state or local child support enforcement agency;

Third-party verification form from the person paying the support;

Family's self-certification of amount received;

*Note:* Families are not required to undertake independent enforcement action.

### 7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

#### LACDA Policy

The LACDA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the LACDA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

## 7-III.F. ASSETS AND INCOME FROM ASSETS

### Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

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

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

When net family assets have a total value over \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one (1) statement that reflects the current balance of banking/financial accounts.

#### LACDA Policy

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

When verification is required, in determining the value of checking or savings accounts, the LACDA will one (1) current bank statement and will use the current balance.

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

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

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 13. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

### LACDA Policy

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

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

### **7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### LACDA Policy

The LACDA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The LACDA will verify the value of assets disposed of only if:

The LACDA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly resident reported a \$10,000 certificate of deposit at the last annual reexamination and the LACDA verified this amount. Now the person reports that she has given this \$10,000 to her son. The LACDA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the LACDA will verify the value of this asset.

### **7-III.H. NET INCOME FROM RENTAL PROPERTY**

#### LACDA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant.

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the LACDA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS** **[Notice PIH 2023-27]**

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

### **7-III.J. RETIREMENT ACCOUNTS**

#### LACDA Policy

The LACDA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### **7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to verify the income using third-party verification, document because third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

#### LACDA Policy

The LACDA will accept the family's self-certification as verification of fully excluded income. The LACDA may request additional documentation if necessary to document the income source.

The LACDA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.



### **7-III.L. ZERO INCOME REVIEWS [Notice PIH 2023-27]**

A *zero-income review* is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

#### LACDA Policy

The LACDA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

The LACDA will also require that each family member who claims zero income status complete a zero-income certification form. If any sources of income are identified on the form, the LACDA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The LACDA will only conduct interims in accordance with LACDA policy in Chapter 9.

### **7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

#### LACDA Policy

The LACDA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the LACDA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the LACDA is unable to obtain third-party written verification of the requested information, the LACDA will pursue other forms of verification following the verification hierarchy in section 7-I.B.



## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child;
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

## 7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

### Amount of Expense

#### LACDA Policy

Medical expenses (paid by the assisted household member) will be verified through:

Written third-party documents provided by the family, such as LACDA pharmacy printouts or receipts.

The LACDA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The LACDA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the LACDA will redact all personally identifiable information.

If the LACDA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the LACDA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the LACDA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will LACDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the LACDA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

## **Eligible Household**

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A.) of this plan.

## **Qualified Expenses**

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

## **Unreimbursed Expenses**

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

### LACDA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

## **Expenses Incurred in Past Years**

### LACDA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the LACDA will verify:

The anticipated repayment schedule;

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

## **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

### **Amount of Expense**

#### **Attendant Care**

##### LACDA Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks. ATM receipts will not be accepted.

Third-party verification form signed by the provider if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the LACDA will redact all personally identifiable information.

If the LACDA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the LACDA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the LACDA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will LACDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

## **Auxiliary Apparatus**

### LACDA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F. above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

### **Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

### LACDA Policy

The LACDA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify under penalty of perjury that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

## **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

### LACDA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

## **7-IV.D. CHILDCARE EXPENSES**

Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the LACDA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

### **Eligible Child**

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

### **Unreimbursed Expense**

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

### LACDA Policy

The family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.



## **Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### LACDA Policy

#### *Information to be Gathered*

The LACDA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### *Seeking Work*

Whenever possible the LACDA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the LACDA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the LACDA any reports provided to the other agency.

In the event third-party verification is not available, the LACDA will provide the family with a form on which the family member must record job search efforts. The LACDA will review this information at each subsequent reexamination for which this deduction is claimed.

#### *Furthering Education*

The LACDA will request third-party documentation to verify that the person permitted to further their education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

#### *Gainful Employment*

The LACDA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

## **Allowable Type of Childcare**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

### LACDA Policy

The LACDA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6.

The LACDA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The LACDA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

## **Reasonableness of Expenses**

Only reasonable childcare costs can be deducted.

### LACDA Policy

The actual costs the family incurs will be compared with the LACDA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the LACDA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**Exhibit 7-1: Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10]**

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the LACDA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

**Elderly Noncitizens**

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

**All other Noncitizens**

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following:             <ul style="list-style-type: none"> <li>• “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by:             <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul> |
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| <ul style="list-style-type: none"> <li>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</li> </ul> | <ul style="list-style-type: none"> <li>• Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</li> </ul> |
|--|--|

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*.



## CHAPTER 8

### LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

#### INTRODUCTION

Public housing leases are the contractual basis of the legal relationship between the PHA and the resident. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require the PHA to inspect each dwelling unit prior to move-in (including unit transfer move-ins), move-out, and annually during the period of occupancy. In addition, they may conduct additional inspections in accordance with PHA policy.

This chapter is divided into two parts as follows:

**Part I: Leasing.** This part describes pre-leasing activities and the PHA's policies pertaining to lease execution, lease modification, and payments under the lease.

**Part II: Inspections.** This part describes the PHA's policies for inspecting dwelling units and notifying families of HUD REAC NSPIRE inspections.



## PART I: LEASING

### 8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease that complies with HUD's regulations [24 CFR Part 966]. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, **except that the PHA may not renew the lease if the family has violated the community service requirement and if the family is determined to be over income for 24 consecutive months [24 CFR 966.4(a)(2)].**

PHAs must adopt smoke-free policies, which HUD required to be implemented no later than July 30, 2018. The Smoke-Free policy is attached as Exhibit 8-1.

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the PHA's leasing policies.

For policies on lease requirements for families whose incomes have exceeded the over-income limit for 24 consecutive months, see 13-III.C., Over-Income Families.

### 8-I.B. LEASE ORIENTATION

#### LACDA Policy

The initial term of the lease will be for 12 months. The lease will renew for a 12-month term unless good cause exists not to renew the lease. The LACDA will provide the household with an Annual Notice of Change to Public Housing Lease Agreement ("Addendum"), which will be signed by the Property Manager or Area Manager. The Lease Addendum will include the monthly rental payment amount and all other covenants, terms and conditions of the Lease will remain the same. The adult household members are not required to sign the Lease Addendum renewal.

See Chapter 11 for further detail regarding the date of annual re-examination and the Lease Agreement anniversary date.

Upon execution of the lease, the LACDA will conduct a lease orientation for all adult members of the household. The family must attend an orientation before taking occupancy of the unit.

At the time of the Lease-in interview, all adult members will be required to sign the Lease Agreement, Lease Addendums, House Rules, Certified Statements of Resident Obligations, and other documents required by the LACDA. Failure to sign any required documents will be cause for denial of housing.

## Orientation Agenda

### LACDA Policy

When families attend the lease orientation, they will be provided with:

A copy of the Lease Agreement and Addendums

A copy of the LADCA's lease grievance procedure

A copy of the House Rules

A copy of the LACDA's schedule of maintenance charges

A Copy of the full application and signed release forms

A copy of the Parking Policy

A copy of the LACDA's Pet Policy

A copy of the Certified Statement of Resident Obligations

Information on Privacy Act

Fair Housing Booklet

A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

A copy of the form HUD-5380, VAWA Notice of Occupancy Rights

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A copy of the LACDALACDA's smoke free policy

A notice that includes the procedures for requesting relief and the LACDA's criteria for granting requests for relief for excess utility surcharges

The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."

Community Service and Self-Sufficiency Requirements (CSSR) - Agreement

### ***Topics to be discussed and explained to all families include:***

Applicable deposits and all other charges

Review and explanation of lease provisions

Unit maintenance requests and work orders, including online requests via the Rent Café.

Rent Café Tenant Portal Registration

The LACDA's interim reporting requirements



Review and explanation of occupancy forms  
Community Service and Self-Sufficiency Requirements (CSSR)  
Family Choice of Rent  
VAWA Protections  
Smoke-Free Policies  
LACDA/Resident appliance responsibilities (if applicable))  
LACDA/Resident Utility Responsibilities  
Orientation to the community

### **8-I.C. EXECUTION OF LEASE**

The lease must be executed by the tenant and the PHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one PHA unit/development to another.

The lease must state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. Live-in aids are required sign a “Live-In Aide Agreement” (LIA) authorizing the arrangement and describing the status of the attendant. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

#### LACDA Policy

The head of household, spouse/marital-type partner, or cohead, and all other adult members of the household and an authorized representative of the LACDA, will be required to sign the public housing lease prior to admission. An in-person appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the LACDA will retain a copy in the resident’s file. The lease is incorporated into this policy by reference. The lease document will reflect current LACDA policies as well as applicable Federal, State and Local law.

The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and does not have the right to tenancy or continued occupancy. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

## **8-I.D. MODIFICATIONS TO THE LEASE**

The lease may be modified at any time by written agreement of the resident and the PHA [24 CFR 966.4(a)(3)].

### **Modifications to the Lease Form**

The PHA may modify its lease from time to time. However, the PHA must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes. The PHA will consider any comments before Board review/approval, and formally adopting a new/modified lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

#### LACDA Policy

The family will be given at least a 60-day notice in advance of the effective date of the lease revisions, and the family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 calendar days timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each resident; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the management office, if any, or if none, a similar central business location within the development. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective, they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

#### LACDA Policy

When the LACDA proposes to modify or revise schedules of special charges or rules and regulations, the LACDA will post a copy of the notice at each of the management offices and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Any modifications of the lease must be accomplished by a written addendum to the lease and signed by the site Property Manager or Operation's Manager.

A resident's refusal to execute the LACDA approved lease modifications, or those modifications required by HUD, is a material breach of the Lease Agreement and grounds for termination of tenancy.

## **Other Modifications**

### LACDA Policy

#### ***The following provisions govern lease execution and amendments:***

A lease is executed at the time of admission for all new residents.

A new lease is executed at the time of the transfer of a resident from one LACDA unit/development to another.

A new lease is executed at the time of an approved new adult member add-on.

When a member turns 18 years of age.

If, for any reason, any signer of the lease ceases to be a member of the household, the lease will be amended by drawing a line through the party's name and both parties will be required to initial and date the change.

The names of all household members are listed on the lease at initial occupancy and on the Annual Notice of Change Public Housing Lease Agreement ("Addendum") each subsequent year. Only those persons listed on the most recent certification shall be permitted to occupy a dwelling unit.

Changes to resident rents are made upon the preparation and execution (signed) of an Annual Notice of Change Public Housing Lease Agreement ("Addendum") at the time of the annual recertification or "Notice of Rent Adjustment" between annual reexaminations by the LACDA, which becomes an attachment to the lease. Documentation will be included in the resident file to support proper notice.

Households that include a live-in aide are required to execute a "Live-In Aide Agreement" authorizing the arrangement and describing the status of the attendant.

#### ***Additions to The Lease***

Requests for the addition of a new member to the household must first be approved by the LACDA, prior to the actual move-in by the proposed new member except for additions by birth, adoption, court-awarded custody foster adult, and/or of a minor child approved by a social service agency (i.e. DPSS, DCFS, etc.), in which case the family must inform the LACDA within ten (10) calendar days.

Following receipt of a family's request to add a new member, the LACDA will conduct a pre-admission suitability review for those proposed household members over the age of 18 and conduct a screening for sex offender status for proposed members between the ages of 13 to 17 years of age. A new Lease Agreement for the household will be required when an authorized adult member is approved and added to the family composition. Only those members approved by the LACDA will be added to the lease. Furthermore, the LACDA will consider whether the resident request to add a member(s) will exceed the occupancy limit for the unit as a factor determining whether to approve the request.

Upon approval by the LACDA, families may add only the following persons to their lease:

- Spouse/marital/domestic-type partner and the minor children of that person.

- Minor child of the head of household, co-head, spouse/marital-type partner who has been living elsewhere.
- Addition of Military adult child with a discharge date within 120 days from any of the US Armed Forces.
- A disabled adult parent or child of the head of household/co-head who requires disability-required care.
- Former household member(s) may be reinstated within 120 days after their move-out, if they are in good standing with the LACDA. Member is subject to Criminal Background screening and must meet suitability requirements.
- Secondary Education Students - Former household members in good standing that were removed from the household while attending a secondary educational institution may be reinstated within 120 days from completion of their education program, with verification from the educational institution. Written verification from the registrar's office will be required. Verification must include ongoing and consecutive enrollment status or an approved and/or authorized leave per the educational institution, or evidence of completion. Member is subject to Criminal Background screening and must meet suitability requirements.

Live-in aides do not have the right of tenancy and cannot be added to the families' Lease Agreement. Upon approval by the LACDA, a live-in aide can reside in the household. Live-in aides are required to execute a "Live-In Aide Agreement" with the LACDA.

Children born to a family member are not subject to screening for purposes of determining household additions.

Residents who fail to notify the LACDA of additions to the household, or who permit persons to join the household (includes permitting non-tenants to utilize a resident's address), without undergoing screening are considered to have unauthorized occupants by the LACDA and are in violation of the lease and subject to termination of tenancy [24 CFR 966.4(f)(3)].

Upon approval of the additional household members between annual reexaminations, the LACDA will process an interim re-examination, HUD Form 50058 to reflect the change in household composition and income, the Lease anniversary date will remain the same. In cases where the new household member is over the age of 18, the LACDA will execute a new Lease Agreement with the family. In such cases, the LACDA will conduct an annual or interim reexamination (whichever is applicable).

***Leasing Units with Accessible or Adaptable Features [24 CFR 8.27(A)(1)(2) and (b)]***

Before offering a vacant accessible unit to a non-disabled applicant, the LACDA shall offer such units in the following priority order:

1. To a current occupant of another unit of the same development, or other public housing development under the LACDA's control, who has a disability that requires the special features of the vacant unit.
2. To an eligible qualified applicant on a specific waiting list having a disability that requires the special features of the vacant unit.

3. To an eligible qualified applicant on a specific waiting list who does not require the special features of the vacant unit.

The LACDA will require a non-disabled applicant to agree prior to move in to move to an available non-accessible unit within 30 calendar days when either a current resident or an applicant needs the features of the unit and there is another unit available for the applicant. This requirement is a provision of an Addendum to the Public Housing Lease Agreement.

## **Utility Services**

### LACDA Policy

Residents are responsible for direct payment of utilities. Residents must abide by any and all regulations of the specific utility company, including regulations pertaining to advance payments of deposits. Failure to maintain utility services during tenancy is a lease violation and grounds for termination of tenancy.

If there is a utility reimbursement payment, the LACDA shall pay the utility reimbursement payment directly to the resident as delineated in Chapter 6.

## **8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]**

Residents must pay for the security deposit to the PHA at the time of admission. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the PHA. The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit or used for tenant services or activities.

### LACDA Policy

Residents must pay a security deposit to the LACDA at the time of admission. The amount of the security deposit will be equal to the family's total tenant payment at the time of move-in and must be paid in full prior to occupancy.

### ***Elderly-Only Housing Developments:***

The Security Deposit is the greater of the applicant's TTP or \$75 for Elderly-Only housing developments.

### ***General Occupancy Housing Developments:***

The Security Deposit is the greater of the applicant's TTP or \$125 for general occupancy housing developments.

The LACDA will hold the security deposit for the period the family occupies the unit.

The LACDA will not use the security deposit for rent or other charges while the resident is living in the unit.

The LACDA will refund the Security Deposit less any amounts owed as required by California State Law (Civil Code 1950.5(g)(1)), within 21- days, following the move out. The refund the amount of security deposit, less any amount needed to pay the cost of:

Unpaid Rent;

Damages listed on the Move-Out Inspection Report that exceed normal wear and tear;

Other charges under the Lease.

The resident caused unit damages will be listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

If the resident transfers to another unit or development, the LACDA will refund the security deposit 21-days following the move-out, less damages, and collect a new security deposit TTP. Families will be required to update their income and other information upon prior to the unit transfer. The resident will be informed of the new security deposit amount.

## 8-I.F. PAYMENTS UNDER THE LEASE

### Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

#### LACDA Policy

The tenant rent is due and payable to THE LOS ANGELES COUNTY DEVELOPMENT AUTHORITY (LACDA). Payment must be mailed to Bank of America (BofA) Post Office Box as noted in the lease on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter. Resident must include the rent payment stub with the payment.

If a family's tenant rent changes, the LACDA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

If BofA does not receive a payment by the fifth business day of the month, a notice to pay rent or quit will be served on the resident. Residents shall make all payments by check or money order payable to THE LOS ANGELES COUNTY DEVELOPMENT AUTHORITY (LACDA). The LACDA shall collect a fee in the amount charged the LACDA by the bank anytime a check is not honored for payment or there are insufficient funds through an Automated Clearing House (ACH) or web-based payment. A dishonored bank check fee shall be due two (2) weeks after service of notice. Residents who submit more than two (2) checks that are not honored for payment will be required to make rent payments by money order only. If a Resident is delinquent in paying their rent more than three (3) times during a twelve (12) month period, it will be considered a material breach of their Lease Agreement.

If a resident is issued a Notice of Termination, the LACDA will not accept rent payments in any form unless the resident is in the grievance hearing process.

The LACDA provides Residents with up to three options for paying rent:

#### ***Option 1:***

##### Lockbox System Payment

The following is the LOCKBOX procedure for paying rent:

- All rent payments are mailed to a Bank of America (BofA) Postal Office Box;
- BofA scans the rent resident's payment stub and the money order/check;
- All scanned documents and payment information is inputted and batched by BofA;
- BofA uploads all payment information to a secure web site;

The LACDA accesses the secure BofA web site and import rent payment data into the housing software.

***Option 2:***

**Web Based Online Payment**

An LACDA resident can make rent payments online through the LACDA's secure online rent payment service. Residents must enter their T Code, bank account number, and bank routing number. Payments made before 4:00 p.m. are debited from the resident's bank account on the same day if the resident banks with Bank of America, all other financial institutions may take 3-5 business days. If there are insufficient funds in the resident's account, the LACDA shall collect from the resident any fees charged by the bank. Residents can make web based online payments at any time.

***Option 3:***

**Automatic Bank Payment**

An LACDA resident can make Automated Clearing House (ACH) rent payments from the resident's bank account. The resident's bank account will be debited on the third (3rd) calendar day of each month. If that day is on a weekend or holiday, the payment will be debited on the next business day.

Residents continue to receive a monthly rent statement and the total rent due (on that statement is the amount that is withdrawn from the resident's bank account. A resident can cancel automatic rent payments by providing their management office with a written request to cancel. Cancellation request must be submitted by the 10th of the month to allow the LACDA and the Depository sufficient time to process. If there are insufficient funds in the resident's account, the LACDA shall collect from the resident any fees charged by the bank.



## **Late Fees and Nonpayment [24 CFR 966.4(b)(3); Notice PIH 2021-29]**

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

### LACDA Policy

If the rent payment is not received by the Bank of America processing center by the fifth (5) day of the month, and the LACDA has not agreed to accept payment at a later date, a 14-Day Notice failure to pay rent, demanding payment in full or the surrender of the premises; 30-day Notice (during nationwide emergency orders).

In addition, if the BofA does not receive a payment by the fifth (5) business day of the month, a late fee of \$25.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the LACDA may not take action for nonpayment of the fee until the conclusion of the grievance process.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of \$25.00 will be charged to the family. The fee will be due and payable 14 calendar days after billing.

## **Excess Utility Charges**

### LACDA Policy

Residents in units where the LACDA pays the utilities may be charged for excess utilities if additional appliances or equipment are used in the unit. This charge shall be applied as specified in the lease. [24CFR 966.4(b)(2)]

## **Maintenance and Damage Charges**

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease states the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and residents on request [24 CFR 966.5].

The lease states that charges for maintenance and repair beyond normal wear and tear are not due and collectible within 30 calendar days from the date the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA will not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

### LACDA Policy

When applicable, families will be charged for maintenance and/or damages according to the LACDA's current schedule (posted in the each of the Management Offices). Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed in accordance with requirements regarding notices of adverse actions. Charges are due and payable within 30 calendar days from the billing date. If the family requests a grievance hearing within the required timeframe, the LACDA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

## Home Occupations

### LACDA Policy

The LACDA in its sole discretion, may authorize a unit to be used as a place for conducting a home occupation; provided that the unit is used primarily as a place of residence and the following conditions are met to assure that the use of the unit is consistent with residential use and will not disturb the peaceful enjoyment of the premises by other residents.

### *Criteria for Home Occupations*

1. No construction, structural alteration or addition to the unit shall be permitted;
2. Not more than one room in a unit shall be primarily used in connection with the home occupation;
3. No special equipment or facilities other than furnishings, small tools, and hand-carried or light office machines shall be installed or utilized;
4. No persons other than residents of the LACDA shall work on the Premises in connection with the home occupation;
5. There shall be no excessive vehicular traffic to or from the unit by customers, salesmen, repairmen, service vehicles, deliverymen, messengers, or others beyond the amount of such traffic generally incidental to residential uses;
6. No sound created by the operation of the home occupation shall raise the noise to a level which disturbs the neighbors or the housing complex;
7. No hazardous or offensive materials shall be stored or utilized;
8. No sign shall be displayed which in any way indicates the presence of a nonresidential activity;
9. There shall be no evidence of nonresidential activity visible from any point beyond the immediate premises where the home occupation is located;
10. Storage of goods and materials not associated with residential uses shall be limited and shall not create a safety or health impact such as, but not limited to, fire safety or blockage of passageways;
11. Sale of firearms shall be prohibited.
12. Being in possession of an unregistered or illegal gun or other firearm.
13. The Property Manager shall have final approval of all Home Occupation activities.

### *Criteria for Childcare Home Occupations*

For those residents electing to provide childcare in their unit, the following additional requirements must be followed:

1. Criminal background check for all family members 18 years of age and older
2. Executed Space Use Agreement (SUA) which will include the following:
  - a. In accordance with the revised Health and Safety Code Section 1597.531, the childcare provider shall maintain one of the following:

- i. Liability insurance kept in force covering injury to clients and guests in the amount of at least one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) in the total annual aggregate, sustained on account of the negligence of the licensee or its employees; or
  - ii. A bond in the aggregate amount of three hundred thousand dollars (\$300,000); or
  - iii. A file of affidavits signed by each parent with a child enrolled in the home. The affidavit shall state that the parents has been informed that the family child care home does not carry liability insurance or a bond according to standards established by the state of California, and that the parent has been informed that the liability insurance, if any, of the owner of the property may not provide coverage for losses arising out of, or in connection with, the operation of the family day care home, except to the extent that the losses are caused by, or result from, an action or omission by the owner of the property for which the owner of the property would otherwise be liable under the law.
3. A family day care home that maintains liability insurance or a bond pursuant to the above section, shall name the LACDA as an additional insured party on the liability insurance policy or bond with the following conditions being met:
  - a. The LACDA may make a written request to be added as an additional insured party;
  - b. The addition of the LACDA does not result in cancellation or nonrenewal of the insurance policy or bond carried by the family day care home;
  - c. Any additional premium assessed for this coverage is paid by the LACDA.
4. Provide a copy of State of California Child-Care License
5. Pass a Unit Inspection in accordance with NSPIRE Inspections
6. Comply with the Home Inspection Criteria
7. Abide by and assure that childcare clients comply with the applicable terms of the Lease Agreement (section 6 parts A, B, C, D, E, F, H, L, N, O, Q, S, T, U, W, Z, AA, CC, DD, and EE) established for the benefit and well-being of the Housing Development in which the Residence is located. The Lease Agreement is available in the Management office
8. Provide to the Property Manager the names of each parent and child utilizing the childcare services
9. Complete a safety training to be conducted by site Maintenance staff;
10. Notify the site Community Policing Program (CPP) that resident is conducting childcare in the unit

11. Resident, as Licensee, shall comply with all applicable Federal, State, and local laws regarding the provision of childcare in the unit and comply with all terms of their Lease Agreement
12. The LACDA shall ensure the peaceful enjoyment of all residents at the housing development
13. Failure to comply with the Childcare Home Occupations Policy may result in the resident losing their housing
14. Provide the site management office with the name of an alternate person as back-up child caretaker, including a copy of the person's valid California Identification Card or Driver's License.



## PART II: INSPECTIONS

### 8-II.A. OVERVIEW

The U.S. Department of Housing and Urban Development's (HUD) new housing inspection approach, under development, prioritizes health, safety, and functional deficiencies over those about appearance. The National Standards for the Physical Inspection of Real Estate (NSPIRE) is a single inspection standard for all units under the Public Housing, HCV, Multifamily, and Community Planning and Development (CPD) programs.

In accordance with HUD, the PHA's Public Housing program is required to comply with the mandatory NSPIRE. This new standard replaces the Real Estate Assessment Center's (REAC's) mandated inspections.

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (**NSPIRE**) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with State and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the PHA to inspect each public housing unit prior to move-in and at move-out. The PHA may require additional inspections, in accordance with PHA policy. This part contains the PHA's policies governing inspections by the PHA and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by the PHA (including annual self-inspections) and inspections conducted by HUD REAC.

## **8-II.B. PHA-CONDUCTED INSPECTIONS**

The PHA is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

In accordance with PIH Notice 2013-17, the PHA may take photos during routine and scheduled unit/site inspections and/or work order calls to identify and record the quality of the inspectable item or to record deficiencies and/or damages, including photos of the corrected deficiencies/damages. The photos will be secured and stored in the respective inspection and/or work order report(s) in the resident's paper or electronic file. Each photo taken will be clearly labeled (i.e., date/time, unit/site location), so that the relevant content of the photo is easily identified; photo will be matched to a specific item on the inspection and/or workorder report along with any written description of the deficiency, damage(s), corrected damage(s)/deficiencies.

### **Types of PHA-Conducted Inspections**

#### ***Move-In Inspections* [24 CFR 966.4(i)]**

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, must be provided to the tenant and retained in the resident file.

#### LACDA Policy

The LACDA and the family **will** inspect the premises prior to occupancy of the unit in order to determine the condition of the unit and equipment in the unit (including unit transfers). A copy of the inspection, signed by head of household and the LACDA authorized representative, will be kept in the resident file.



### ***Move-Out Inspections [24 CFR 966.4(i)]***

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if they wish unless the tenant vacates without notice to the PHA. The PHA will mail a Final Statement to the forwarding address provided of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

#### LACDA Policy

The purpose of these inspections is to determine necessary maintenance and whether there are damages that exceed normal wear and tear. The LACDA will determine if there are resident caused damages to the unit. Resident caused damages may affect part or all of the family's security deposit.

In accordance with Section 1950.5(f) of the California Civil Code, the LACDA will abide by the following Move-Out Inspection procedures when the resident submits a 30-day Notice of Intent to Vacate or the LACDA issues a 30-day Notice to Vacate or a 14-Day Notice to Pay Rent or Quit or a 30-Day Notice to Cure or Quit, to the resident.

These procedures do not apply to residents who receive a Three-Day Notice to Quit due to a lack of time to provide an initial Move-Out inspection.

The LACDA shall notify the resident in writing of their option to request an initial Move-Out inspection and their right to be present at the inspection.

At the time the resident submits a 30-Day Notice of Intent to Vacate or the LACDA issues a 30-Day or 14-Day Notice, the residents will be informed that the request for the initial inspection must be in writing and delivered to the Management office during normal business hours within three (3) days of the date of service of the Notice. Should the resident fail to request an initial inspection, the LACDA will be discharged of its duty.

After the resident submits a request for an initial inspection, the LACDA and the resident will schedule said inspection at a mutually agreed upon date and time. The inspection should be scheduled no earlier than two weeks before the termination of the Lease Agreement.

The LACDA will give the resident 48-hour prior written notice of the mutually agreed upon date and time. However, the LACDA and the resident may forego the 48-hour written notice by executing a written waiver. The LACDA will then proceed with the inspection whether the resident is present or not in the unit.

Upon the completion of the inspection, the LACDA will give the resident an itemized statement specifying the items that are in need of repair and/or cleaning which will be the basis for deductions from the security deposit. This itemized statement will be handed to the resident at the conclusion of the inspection or placed inside the unit (should the tenant not be present).

The resident will have the opportunity during the period from the completion of the initial inspection until termination of the Lease Agreement to remedy the deficiencies.

Following the final inspection (post Move-Out), the LACDA may deduct from the security deposit items not cured, items which occurred after the initial inspection, or items not identified during the initial inspection due to the presence of the resident's possessions.

***Self-Inspections (Annual) [24 CFR 5.707]***

Annually all PHAs are required to self-inspect their properties/developments, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

The PHA must maintain the inspection results of self-inspections for three years and must provide the results to HUD upon request.

***Quality Control Inspections***

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed and within an acceptable time frame.

LACDA Policy

Supervisory quality control inspections will be conducted periodically in accordance with the LACDA's maintenance plan. The quality control inspections will determine the condition of the unit and to identify problems or issues in which the LACDA can be of service to the family and to assure that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

The LACDA will conduct quality control inspections of not less than 5% of all units.

## **Special Inspections**

### LACDA Policy

The LACDA may conduct a special inspection for housekeeping, unit condition, or suspected lease violation every 30 days for one year. Tenants will have 30 days to correct any deficiencies noted by the LACDA and may be subject to one or more follow-up inspections.

HUD representatives or local government officials may review LACDA operations periodically and as a part of their monitoring may inspect a sampling of the LACDA's inventory.

LACDA staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

## **Other Inspections**

### LACDA Policy

Building exteriors, grounds, common areas and systems will be inspected according to the LACDA's maintenance plan.

## **Notice of Entry**

### **Non-emergency Entries [24 CFR 966.4(j)(1)]**

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

### LACDA Policy

The LACDA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual self-inspections, the family will receive at least two weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the LACDA to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

The LACDA staff will allow access to the unit to proper authorities when issues of health or safety of the resident are concerned.

### **Emergency Entries [24 CFR 966.4(j)(2)]**

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the PHA will leave a written statement (i.e., door tag) showing the date, time, and purpose of the entry prior to leaving the dwelling unit.

#### LACDA Policy

The LACDA may conduct an emergency inspection without a work order and will generate a work order after the inspection has been conducted. The emergency repairs are to be completed within 24 hours from the time the work order is issued. A record of such inspections, work orders, and photos will be maintained in the resident's file and recorded in the housing system software.

### **Scheduling of PHA-Conducted Inspections**

#### LACDA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the LACDA at least 24 hours prior to the scheduled inspection. The LACDA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The LACDA may request verification of such cause.

### **Attendance at Inspections**

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

#### LACDA Policy

While the resident is required to be present for move-in inspections, the resident is **not** required to be present for other types of inspections. The resident may attend the inspection if they wish.

If no one is at home, the inspector will enter the unit, conduct the inspection, and will provide a copy of the inspection results to the resident no later than two weeks from the inspection date.

## **Repairs**

Correction timeframes differ depending on whether repairs are considered emergency or non-emergency repairs.

### **Emergency Repairs [24 CFR 966.4(h)]**

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA will make the repairs within a reasonable time frame. Under NSPIRE, the PHA will correct all Life-Threatening and Severe deficiencies within 24 hours.

If the damage was caused by a household member or guest, the PHA will charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

### **Non-emergency Repairs**

#### LACDA Policy

The LACDA will correct deficiencies resulting in a non-emergency work order identified during a LACDA conducted inspection within five (5) working days of the inspection date. If the LACDA is unable to make repairs within that period due to circumstances beyond the LACDA's control (e.g., required parts or services are not available, weather conditions, nationwide state of emergency, etc.) the LACDA will notify the family of an estimated date of completion.

The family must allow the LACDA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

### **Resident-Caused Damages**

#### LACDA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., Maintenance and Damage Charges. The LACDA Inspection results will indicate whether required corrections are to be charged to the resident or covered by the LACDA. Repeated failed inspections or damages to the unit beyond normal wear and tear may constitute serious or repeated lease violations.

## **Housekeeping**

### LACDA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the LACDA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Should the resident “fail” the housekeeping inspection, the LACDA will conduct such inspections every 30 days for a 12 month to abate the problem. A reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit’s smoke detector and/or carbon monoxide alarm.

## **8-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]**

Once REAC has scheduled an inspection, the NSPIRE system will alert the PHA or POA and the assigned HUD field staff representative. Currently, REAC provides a 28-calendar day notice of the inspection. During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

### **Notice to Residents [Notice PIH 2023-16]**

The PHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.

### LACDA Policy

The LACDA will provide all residents with at least seven (7) days’ advance notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident’s door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD’s Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

The LACDA will maintain the documents related to the inspection of the property for review by residents for a period of 60 days from the date HUD provides the inspection score for the property in which the residents reside (24 CFR 5.711(h)(2)(iii)).

## **24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]**

The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency. List of Life-Threatening deficiencies are provided by HUD.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, the PHA must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

### LACDA Policy

The LACDA will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the LACDA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents, or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While the LACDA will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, the LACDA will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, the LACDA will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow the LACDA access to the unit to make repairs.

## **Non-emergency Repairs**

Under NSPIRE, the PHA must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

### LACDA Policy

If the LACDA is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond the LACDA's control (e.g., required parts or services are not available, weather conditions, etc.), the LACDA will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. The LACDA will also notify the family of an estimated date of completion.

The family must allow the LACDA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

## **EXHIBIT 8-1: SMOKE-FREE POLICY**

In accordance with HUD regulations, the Housing Authority has adopted these smoke-free policies. The policies are effective as of Board approval date.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures. Smoking is also prohibited in outdoor areas within 25 feet from public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and vendors. Residents are responsible for ensuring that household members and guests comply with this rule.

The term “smoking” means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other prohibited tobacco product in any manner or any form. Prohibited tobacco products include water pipes or hookahs.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

### **LACDA POLICIES**

#### **Non- Smoking Enforcement**

The LACDA strictly prohibits smoking on all our properties except at the South Bay Gardens senior housing development located at 230 E. 130th Street, Los Angeles CA 90061. The term “smoking” means inhaling, exhaling, breathing, or carrying or possessing any lighted cigarette, cigar, pipe, hookah or other prohibited tobacco, marijuana, or similar lighted product in any manner or in any form. Additionally, “smoking” also includes but is not limited to the use of an electronic cigarette (e-cig or e-cigarette), a personal vaporizer (PV) or an electronic nicotine delivery system (ENDS).

The smoke free policy applies to all residents, guests, visitors, vendors, and staff. At South Bay Gardens, smoking is only permitted in one specified open area that is located at least 25 feet away from a LACDA building and is clearly labeled as a “Smoking Designated Area”.

The LACDA may terminate the Lease for a material or continuing breach of the Public Housing Non-Smoking Lease Addendum. Additionally, Residents are financially responsible for the mitigation of any damages caused by smoking in their unit or caused by smoking in non-smoking areas on the LACDA’s premises. Residents shall pay for these damages as set forth in the Lease as “Other Charges”. Costs may include but are not limited to cleaning, sealing, painting, deodorizing, duct cleaning, and possible replacement of fixtures and various surface materials.

The LACDA would like to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) the increased maintenance and cleaning costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the higher costs of fire insurance for a non-smoke-free building.

Residents, members of the Resident's household or their guests/visitors are strictly prohibited to smoke on the premises occupied by the Resident and members of the Resident's household in any



common areas, including but not limited to community rooms, community bathrooms, lobbies, reception areas, hallways, laundry rooms, stairways, offices and elevators, playground areas, entry ways, porches, balconies, and patios. Smoking is strictly prohibited on all of the LACDA's properties, except for the designated smoking area at the South Bay Gardens housing development, including individual units, common areas, every building and adjoining grounds. A Resident, members of the Resident's household or their guests/visitors shall not smoke anywhere in Non-Smoking Areas. The Resident may not permit any guests or visitors under the control of the Resident to smoke in Non-Smoking Areas.

### **Resident to Promote Non-Smoking Policy and to Alert the LACDA of Violations**

Residents shall inform Resident's guests or visitors of the non-smoking policy. Residents are also encouraged to promptly submit to Management a written statement of any incident where tobacco smoke is migrating into the Resident's unit from sources outside of the Resident's unit.

### **Vendors and LACDA Staff**

Vendors and LACDA staff on LACDA premises must also adhere to the non-smoking policies delineated in this chapter.

### **Promotion of Non-Smoking Policy**

Management shall post no-smoking signs at entrances and exits, in common areas, and in conspicuous locations adjoining the grounds of Non-Smoking Areas.

### **The LACDA Not a Guarantor of Smoke-Free Environment**

The LACDA's adoption of a non-smoking living environment does not make the LACDA the guarantor of the Resident's, members of the Resident's household or their guests/visitors health or of the non-smoking condition of the Resident's unit and common areas. However, the LACDA shall take reasonable steps to enforce the non-smoking terms as set forth in the Lease Addendum and ACOP and to make the Non-Smoking Area as smoke-free as is reasonably possible. The LACDA is not required to take steps in response to smoking unless the LACDA is aware of said smoking or has been given written notice of said smoking.

### **LACDA Disclaimer**

The LACDA's adoption of a non-smoking living environment does not in any way change the standard of care that the LACDA would provide to a resident household to render buildings and premises designated as non-smoking any safer, more habitable, or improved in terms of air quality standards than any other rental premises. The LACDA specifically disclaims any implied or express warranties that the building, common areas, or Resident's premises will have any higher or improved air quality standards than any other rental property. The LACDA cannot and does not warrant or assert that the rental premises or common areas will be free from secondhand smoke. The LACDA's ability to police, monitor, or enforce the agreements of the Lease Addendum is

dependent in significant part on voluntary compliance by the Resident and Resident's guests/visitors. Residents and Resident's guests/visitors with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that the LACDA does not assume any higher duty of care to enforce the Public Housing Non-Smoking Lease Addendum than any other LACDA obligation under the Lease.

## CHAPTER 9

### REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

#### INTRODUCTION

The PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents is located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

**Part I: Annual Reexaminations for Families Paying Income Based Rents.** This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

**Part II: Reexaminations for Families Paying Flat Rents.** This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

**Part III: Interim Reexaminations.** This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

**Part IV: Recalculating Resident Rent.** After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the resident rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

**Part V: Non-Interim Reexamination Transactions.** This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.



## **PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS**

**[24 CFR 960.257]**

### **9-I.A. OVERVIEW**

For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. With the exception of over-income families, who must have their income reviewed at 12 and 24 months. For flat rent families, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance.

The PHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a “safe harbor” income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA’s policies related to streamlined income determinations and the use of safe harbor income verifications.

This part contains the PHA’s policies for conducting annual reexaminations.

## **9-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

The PHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12-month period [24 CFR 960.257(a)(1)].

### LACDA Policy

Generally, the LACDA will schedule annual reexaminations to coincide with the family's anniversary date. The LACDA will begin the annual reexamination process 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

For families who move in on the first of the month, the annual re-certifications will be completed within 12 months of the anniversary of the move-in date. (Example: If family moves in on August 1, the annual recertification will be effective on August 1, the following year).

For families who move after the first of the month, the annual recertification will be completed no later than the first of the month in which the family moved in, the following year. (Example: If family moves in August 15, the effective date of the next annual recertification will be August 1.)

### ***Lease Anniversary Date and the Annual Recertification***

In order to have consistency between the Lease Anniversary and the Annual Recertification, the LACDA will adhere to the following:

Upon move-in, the date the resident and the LACDA execute the Lease Agreement will be the same effective date as the HUD Form 50058 (for example, the resident signs the Lease Agreement on November 1st, which will be the same date on the 50058 effective date).

The terms of the Lease Agreement, as stated previously, will be for a 12-month period (i.e., November 1st through October 31st of the following year) and the 50058 will be completed to coincide with the anniversary date (for Lease Agreements executed on the first of the month).

However, for Lease Agreements executed after the 1st of the month (for example, November 15th), the recertification date for the following year will take place on the first of the month in which the family moved in (i.e., November 1st of the following year).

If the family transfers to a new unit, a new annual reexamination (50058 Action Type 2 or 12) will not be conducted, unless the actual move in date occurs on the household's annual reexamination date or Flat Rent update. The anniversary date will not change upon the completion of the transfer.

When families transfer to another unit or property (i.e., IPT/OPT transfer), the LACDA will require the family to update their income and family composition and a new Lease

Agreement shall be executed, but under no circumstances shall the annual recertification take place later than twelve months from the last anniversary date.

The LACDA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

### **Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give residents who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. The PHA should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

#### LACDA Policy

All families will be notified in writing of their obligation to recertify annually. The notification shall be provided at least 120 calendar days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the LACDA will provide the notice in an accessible format. The LACDA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Annual reexaminations will be conducted by mail, in person, or via the Resident Rent Café Portal (Online). Notification of the annual reexamination will be sent by first-class mail or through the Resident Rent Café Portal which will inform the family of the information and documentation that must be provided to the LACDA, and the deadline for providing it. Documents will be accepted by mail, through the Resident Rent Café Portal, by fax, or in-person. The LACDA will, however, conduct reexams in person if requested as a reasonable accommodation or by LEP persons. Reasonable accommodation requests will be handled in accordance with policies in Chapter 2. Further, an in-person interview will be scheduled if the family requests assistance in providing information or documentation requested by the PHA or if the required paperwork is not returned timely, or if it is returned timely but is not complete.

Effective July 1, 2023, the LACDA will provide the families the opportunity to conduct their annual reexaminations online via the LACDA's online portal, referred to as the Yardi Rent Café Portal, or submit their paper packet. For families who have language barriers and/or need assistance in accessing the online system, the LACDA will provide accommodations as necessary to ensure that the family can submit the required information and documents through the online system. For people limited by a disability, the LACDA will engage in any necessary discourse to identify other reasonable alternatives to address the needs of the person that is limited by the disability to ensure that the annual reexamination requirement is fulfilled.

Persons with disabilities, who are unable to come to the LACDA's office will be granted an accommodation of conducting the interview at the person's home/by mail/hospital, upon verification that the accommodation requested meets the need presented by the disability.

## **Streamline Annual Recertification for Households with Fixed Income**

### LACDA Policy

The LACDA will now streamline the annual re-examination process by applying the verified Cost of Living Adjustment (COLA) or interest rate to fixed-income sources. The LACDA will document in the file how the determination is made that a source of income is fixed income. Third party verification of fixed sources of income will be obtained during the admissions process and at least once every three years thereafter. If a family member with a fixed source of income is added, the LACDA will use third-party verification of all income amounts for that family member. If verification of the COLA or rate of interest is not available, the LACDA will obtain third-party verification of income amounts. Under discretionary policy, third-party verification of non-fixed income will be obtained annually regardless of the %age of family's income received from fixed income sources. At least 90% of the household's annual income must be from fixed income source to be eligible for the Streamline Annual Recertification. At the LACDA's discretion, the LACDA may obtain third-party verification of all income, regardless of the source. Furthermore, upon request of the family, the LACDA must perform third-party verification of all income sources. Under this policy, fixed sources of income include Social Security (SS) benefits, Supplemental Security Income (SSI), private and public pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest.

## **Annual Reexamination Timeframe**

### LACDA Policy

If the family is unable to submit the completed annual reexamination timely, the family should contact the LACDA five (5) calendar days in advance of the due date to request an extension. In all circumstances, if a family does not submit the completed annual reexamination by the due date the LACDA will send a second notification with a new due date and/or interview date.

The LACDA reserves the right to conduct annual reexamination interviews orally, in-person, or virtually when it deems it necessary to complete the annual reexamination process timely. All adult family members may be required to attend the interview. If the head of household is fails to attend the scheduled interview, the family will be considered delinquent.

If a family fails to submit the completed annual reexamination by the due date twice or fails to attend two scheduled interviews without LACDA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.



## 9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

### LACDA Policy

The LACDA may conduct an oral, personal, or virtual annual reexamination interview. All adult family members may be required to attend the recertification interview. Families will be asked to provide all required information (as described in the reexamination notice/packet) during the reexamination process. The required information will include a LACDA's designated reexamination packet as well as supporting documentation related to the family's income, expenses, assets, and family composition. The Annual Reexamination packet is the initial notice.

### ***Failure to Respond to Notification to Recertify or Submit Complete Annual Reexamination Packet***

If the family fails to respond, submit an Annual Reexamination packet, or any required document(s) and/or signature(s) by the due date or the time of the interview (i.e. initial notice), the LACDA will send a written Final Notice (i.e. *Notice for Request of Documents*) to the family. The family will have 10 business days from the date of the Final Notice to attend and/or provide the missing information or documentation to the LACDA.

### ***Documents Required from the Family***

The LACDA will include instructions in the Annual Reexamination packet for the family to provide the following, but not limited to:

- Documentation of income for all family members

- Documentation of liquid and non-liquid assets

- Documentation to substantiate any deductions or allowances

- Annual Reexamination packet must be completed and signed by all adult family members

- HUD form-92006 to update, remove or change the contact information

The written notification will explain which family members are required to attend the recertification interview. The family may call to request another appointment date up to five (5) calendar days prior to the interview.

If the family does not appear for the recertification interview or submit the requested documentation by the due date and has not rescheduled or made prior arrangements with the LACDA, the LACDA will issue a 30-Day Notice to Cure or Quit to the family.

If the family's submission remains incomplete, or the family does not submit the information in by the due date, the LACDA will send a written 30-Day Notice to Cure or Quit to the family. The family will have 30 calendar days from the date of the 30-Day notice to provide the missing information or documentation to the LACDA.

If the family does not provide the required documents or information within the required by the due date, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Exceptions to these policies may be made by the Property Manager and/or Operations Manager if the family is able to provide documentation of such emergency situation that prevented them from canceling or attending the appointment.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's permanent disability status
- Citizenship or immigration status

## **9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]**

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or safe harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

**Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

#### LACDA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with LACDA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the LACDA determination of income or the LACDA has other reason to use third-party verification in these circumstances, then the above will apply.

The Safe Harbor verification may be in the form of an award letter from the relevant federal program and must show that the family's income determination was made in the previous 12 months. **Verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt of the verification by the LACDA. This satisfies all verification date requirements for Safe Harbor income determinations.**

The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the LACDA:

Income determination effective date;

- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that the LACDA is permitted to use to determine income under this Safe Harbor is the total income determination made by the federal means-test program

administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information **must not** be considered by the LACDA for purposes of the HOTMA Safe Harbor provision. The LACDA is not permitted to mix and match Safe Harbor income determinations and other income verifications.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. The LACDA will therefore be required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

It is anticipated that in many cases families will provide the LACDA with the Safe Harbor third-party verification for the purpose of reexamination, rather than the LACDA mailing a verification form to the third party to complete.

When the LACDA does not accept Safe Harbor documentation, is unable to obtain Safe Harbor documentation, or if the family disputes the other program's income determination, the LACDA must calculate the family's annual income using the methods established in § 5.609(c)(1) and (2).

If the LACDA uses a Safe Harbor determination to determine the family's income for an income examination (New Admission/Move Ins, Interim Reexamination, or Annual Reexamination), then the family is obligated to report changes in income that meet the reporting requirement and occur after the effective date of the LACDA's transaction. This might mean that a certain source of income was not considered in the family's income, because the other program does not consider the source to be income.

For example, if the family begins receiving a new source of income on 2/1/2024 and the LACDA completed an annual reexamination effective 3/1/2024 using a Safe Harbor income determination, then the family does not need to report that change in income. If the family has a change in adjusted income in accordance with HUD's rules that occurs after 3/1/2024, when the Annual Reexamination was effective, then the family must report the change to the PHA/MFH Owner.

## **9-I.E. OTHER CONSIDERATIONS**

### **Change in Unit Size**

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the resident, or any member of the resident's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

#### LACDA Policy

At the annual reexamination, the LACDA will ask whether the resident, or any member of the resident's household, is subject to a lifetime sex offender registration requirement in any state and if there have been changes in criminal background activity. The LACDA will use the Dru Sjodin National Sex Offender database to verify the information provided by the resident. The LACDA may request the adult member to execute a consent form for a criminal background check if criminal activity has changed for that respective adult member.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the resident a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

### **Compliance with Community Service**

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

## 9-I.F. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

### LACDA Policy

Effective July 01, 2020, the LACDA will no longer execute a lease renewal agreement, unless there is a change in family composition, change in unit, or change in lease agreement terms. The LACDA will serve the family the Annual Notice of Change to Public Housing Lease Agreement (“Addendum”). The Addendum will also reference the last effective date of the most current signed lease.

In general, an **increase** in the resident rent that results from an annual reexamination will take effect on the family’s anniversary date, and the family will be notified at least 30 days in advance. A proper 30-day notice (*i.e.*, Annual Notice of Change to Public Housing Lease Agreement) will be provided to the family in accordance with State of California Code of Civil Procedure Section 1013(a).

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the LACDA chooses to schedule an annual reexamination for completion prior to the family’s anniversary date for administrative purposes, the effective date will be determined by the LACDA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, **increases** in the resident rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a **decrease** in the resident rent that results from an annual reexamination will take effect on the family’s anniversary date.

If the LACDA chooses to schedule an annual reexamination for completion prior to the family’s anniversary date for administrative purposes, the effective date will be determined by the LACDA.

If the family causes a delay in processing the annual reexamination, **decreases** in the resident rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the LACDA by the date specified, and this delay prevents the LACDA from completing the reexamination as scheduled.





## **PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.253(f)]**

### **9-II.A. OVERVIEW**

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.253(f)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the PHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

As it does for families that pay income-based rent, the PHA must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains the PHA's policies for conducting reexaminations of families who choose to pay flat rents.

## 9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION FOR FLAT RENT FAMILIES

### Frequency of Reexamination

#### LACDA Policy

For families paying flat rents, the LACDA will conduct a full reexamination of family income and composition once every three years.

However, for flat rent families who become over-income, this policy will not apply. The LACDA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, the LACDA will resume reexamination of family income and composition once every three years.

If determination is as a result of an interim reexamination, the LACDA will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, the LACDA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

### Reexamination Policies

#### LACDA Policy

In conducting full reexaminations for families paying flat rents, the LACDA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B. through 9-I.E. above.

For those families that choose to pay the Flat Rent, the amount the family pays **is not locked in for the three (3) year period**. Instead, the LACDA revises the flat rent amount **annually** based on HUD's SAFMR's. Families currently paying the flat rent amount will be offered the choice between the updated annual flat rent amount, and the previously calculated income-based rent. For families that elect to pay flat rent, the LACDA will conduct a reexamination of family income at least once every 3 years, not annually.

## **9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”) FOR FLAT RENT FAMILIES**

As noted above, if full reexaminations are conducted every three years for families paying flat rents, in the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)]. Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, at 12 and 24 months as applicable.

The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

### **Scheduling**

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

#### LACDA Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the LACDA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

### **Conducting Annual Updates**

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

#### LACDA Policy

In order to be recertified, families are required to provide current and accurate information on income, assets, allowances and deductions, and family composition. Families are required to report and certify this information by completing a Personal Declaration with the LACDA. Additionally, families must complete HUD form-92006 “Supplement to Application for Federally Assisted Housing” annually at recertification which updates, removes or changes resident contact and emergency information. All documents provided to the LACDA must be legible.

In conducting the annual update, the LACDA will follow the policy used for conducting annual reexamination of families paying income-based rent as set forth in Section 9-I.C. above.

If the family does not provide the required documents or information by the established due date, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

### **Change in Unit Size**

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The LACDA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

### **Compliance with Community Service and Self-Sufficiency Requirements (CSSR)**

For families who include nonexempt individuals, the LACDA will determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the LACDA's policies governing compliance with the CSSR.

## **PART III: INTERIM REEXAMINATIONS**

24 CFR 960.257(b); 24 CFR 966.4; and Notice PIH 2023-27

### **9-III.A. OVERVIEW**

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

## 9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

### Reporting

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

#### LACDA Policy

All changes in family composition, including additions due to birth, adoption, foster adult, court-awarded custody of a minor approved by a social service agency, **must** be reported within ten (10) calendar days of the occurrence in writing. Changes in family composition include, but not limited to: birth, adoption, legal guardianship, if an adult child goes into the military and leaves the household, full-time students who attend school away from the home during school recess, court-awarded custody foster adult, and/or of a minor child approved by a social service agency (i.e. Department of Public Social Services, Department of Children and Family Services, etc.) Requests for the addition of a new member to the household must first be approved by the LACDA, prior to the actual move-in. The income from approved new household members will be included.

The LACDA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

### New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody of a minor does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 966.4(a)(1)(v)].

#### LACDA Policy

Resident are required to report the addition of a family member as a result of birth, adoption, or court-awarded custody in writing within ten (10) calendar days from the date of occurrence.

## **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The PHA's obligation to make reasonable accommodation for persons with disabilities.

### LACDA Policy

Families must request LACDA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than ten (10) consecutive days or a total of 14 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the LACDA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody), the LACDA will consider whether the resident request to add a member(s) will exceed the occupancy limit for the unit; this will be a determining factor on whether to approve the request. Exceptions may be made on a case-by-case basis.

Furthermore, the LACDA will only approve the following additions to the lease (other than a child by birth, adoption, or court-awarded custody):

- Spouse/marital/domestic-type partner and the minor children of that person
- Minor child of the head of household, co-head, spouse/marital-type partner who has been living elsewhere
- Addition of Military adult child with a discharge date within 120 days from any of the US Armed Forces
- A disabled adult parent or child of the head of household/co-head who requires disability-required care
- Former household member(s) may be reinstated within 120 days after their move-out, if they are in good standing with the LACDA. Must meet the LACDA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).
- Secondary Education Students - Former household members in good standing that were removed from the household while attending a secondary educational institution may be reinstated within 120 days from completion of their education program. Written verification from the registrar's office will be required. Verification must include ongoing and consecutive enrollment status or an approved/authorized leave per the educational institution, or evidence of completion. Must meet the LACDA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

The LACDA will not approve the addition of a new family or household member unless the individual meets the LACDA's eligibility criteria (see Chapter 3), approved addition categories (see above), and documentation requirements (See Chapter 7, Part II).

If the LACDA determines that an individual does not meet the LACDA's eligibility criteria, approved addition categories, or documentation requirements, the LACDA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The LACDA will make its determination within 30 calendar days of receiving all information required to verify the individual's eligibility.

A new Lease Agreement for the household will be required when an authorized adult member is approved and added to the family composition. Only those members approved by the LACDA will be added to the lease.

Live-in aides do not have the right of tenancy and cannot be added to the families' Lease Agreement. Upon approval by the LACDA, a live-in aide can reside in the household. Live-in aides are required to execute a "Live-In Aide Agreement" with the LACDA.

Residents who fail to notify the LACDA of additions to the household, or who permit persons to join the household (includes permitting non-residents to utilize a resident's address), without undergoing screening are considered to have unauthorized occupants by the LACDA and are in violation of the lease and subject to termination of tenancy [24 CFR 966.4(f)(3)].



## **Departure of a Family or Household Member**

The family must promptly notify the PHA if any household member (including a live-in aide, foster child, or foster adult) no longer lives in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

### LACDA Policy

If a household member ceases to reside in the unit, the family must inform the LACDA within ten (10) calendar days, and the notice must contain a certification by the head of household [or spouse] that the member (who may be the head of household) removed is permanently absent. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent. The LACDA will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
- Statements from other agencies such as social services that the adult family member is no longer living at that location.
- If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.
- If the adult family member is permanently confined to a nursing home, verification is required from the nursing home.

The LACDA will process an interim as a result of a family member permanently moving out of the unit. The LACDA requires the family to execute a new lease renewal agreement when removing an adult member from the family composition.

The temporary absence of a child from the home, due to placement in foster care, may be considered in determining family composition and family size, which will be considered in determining bedroom size.

The LACDA may verify changes in family composition (either reported or unreported) through letters, telephone calls, leases, utility records, inspections, landlords, neighbors, credit data, school or Department of Motor Vehicle (DMV) records, and other sources. Verification of legal custody must be a court-ordered assignment or verification from a social service agency.

### **9-III.C. CHANGES AFFECTING INCOME OR EXPENSES**

#### LACDA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses unless the family is switching rent because of hardship circumstances.

In the case of a family that has elected to pay the LACDA's flat rent, the LACDA shall, no later than the first of the month following the month the family reported the hardship, provide for the family to pay rent in the amount determined under income-based rent, during the period for which such choice was made for the following hardship circumstances:

- Situations in which the income of the family has decreased because of changed circumstances, loss of or reduction of employment through no fault of the individual, death in the family, and reduction in or loss of income or other assistance;
- An increase, because of changed circumstances, in the family's expenses for medical costs, childcare, transportation, education, or similar items; and
- Such other situations as may be determined by the LACDA.

The LACDA will verify all hardship situations. If a family has switched from flat rent to income-based rent because of hardship, the family shall remain on income-based rent until the next scheduled annual recertification, at which time the LACDA shall allow the family to elect whether to pay flat rent or income-based rent.

## Reporting Interim Changes -Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

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

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

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

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

### LACDA Policy

HUD allows the PHA's to adopt policies to decline to conduct an interim re-examination of family income if the LACDA estimates that the family's annual adjusted income will decrease by an amount that is **less than** ten (10) % or such lower threshold.

As a discretionary policy, the LACDA **will not establish** a threshold of ten (10) % or less. LACDA reaffirms it will continue to exercise its current interim re-examination policy for all **decreases** in the family's adjusted income or changes in family composition when a family reports the changes in writing.

LACDA will continue to process interim reexaminations for families that experience a loss or decrease in their income and changes in family composition.

The LACDA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount, and/or there has been an increase in allowances or deductions, which would reduce the amount of the TTP.

The LACDA will initiate third-party verification of the decrease in income no later than five (5) calendar days after the resident reports the change to the LACDA. The LACDA will process a rent adjustment to be effective on the first day of the calendar month following the month in which the change in circumstances is reported result in a decrease in tenant rent. If the reduction in income is reported after the LACDA's cut-off date for the following months' rent set-up, Management will charge the resident the former, higher rent, subject to a credit when the circumstances of reduction are verified.

The LACDA will not process an interim reexamination if the family reports a loss of welfare benefits due to fraud, failure to participate in economic self-sufficiency programs, or noncompliance with a work activities requirement.

If the family has experienced a decrease in Social Security or SSI income due to an overpayment, the LACDA will calculate income based on the net amount only for the

specific period of the decrease. Once the overpayment period is over, the LACDA will process an interim reexamination using the gross amount of Social Security or SSI. Verification will be required.

### **Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]**

#### **Increases Less than 10%**

PHAs must not process interim reexaminations for income increases that result in less than a 10% increase in annual adjusted income.

#### **Increases 10% or Greater**

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10% (formerly \$200/month or more) % or more in adjusted income.

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

#### LACDA Policy

As a discretionary policy the LACDA require the families to **continue reporting** their income changes and/or family composition (i.e., earned/unearned income, assets, expenses, full-time student status, and family circumstances within ten (10) calendar days of the date of the occurrence. However, as required by HUD, the LACDA will now *eliminate* the \$200 (monthly) threshold. The LACDA will now conduct an interim reexamination when the family's annual adjusted income has change by an amount that would result in an estimated increase of 10% or more in annual adjusted income or other amount established through HUD notice.

The LACDA will conduct an interim increase when the family experiences an increase in earned income that meets the 10% threshold, and the family previously had an interim decrease to the adjusted income (whether for earned income, unearned income, or a combination of the two) since their last annual.

The LACDA will not process an interim increase for earned income when a previous interim increase was performed resulting in an increase in the family's rent since the family's last annual. Additionally, the LACDA will not process an interim increase for earned income when the family has not had a previous interim decrease since their last annual.

The LACDA will process an interim reexamination for any increases in unearned income of 10% or more in adjusted income.

The LACDA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the LACDA policies in Chapter 15.

### **Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]**

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

### **Cumulative Increases [Notice PIH 2023-27]**

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

### **Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]**

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

## **Family Reporting**

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 %, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

### LACDA Policy

Families have an obligation to report to management within ten (10) calendar days of its occurrence, if there is an additional source of income for any eligible family member and/or change in income or the addition of a family member to the household at any time during their tenancy, including between annual re-certifications. This includes loss or addition of one or more family members through death, divorce, birth, adoption, court-awarded custody and/or where a social service agency (i.e., DPSS, DCFS, etc.) has approved the addition of a minor child to the household. The family must obtain LACDA approval prior to all other additions to the household.

An interim recertification will always be conducted under the following circumstances: If a new source of income occurs; there is an increase in existing income of 10% more of annual adjusted income; change in allowable deductions occurs (i.e., childcare, disability, citizenship eligible immigration status and full-time student status), including anticipated out of pocket (not reimbursed) medical expenses and/or auxiliary expenses. All income for a new family member will be counted and used to calculate the family's TTP.

Failure to disclose the aforementioned information is a material breach of the Lease Agreement. If the Resident or a member of his/her household misrepresents facts, omits any pertinent information, or fails to inform Management of information it requires for an annual reexamination or interim rent adjustment and these failures result in a lower rent than should have been charged, Management, in its sole discretion, may terminate the Lease for a material breach and/or make the rent increase retroactive to the date it would have been effective.

### ***Zero Income Households***

An interim recertification will be scheduled for families with zero income every 90 days. Additionally, the LACDA, at its discretion, can also schedule reviews in between regularly scheduled reviews to determine if an interim recertification is required.

If, during the course of an interim reexamination conducted for a reported decrease in income, it is discovered that a family member is no longer eligible for an allowance (i.e. a minor has turned 18 and is no longer a full-time student), LACDA staff will determine how

the loss of allowance will affect the TTP. However, if the loss of allowance results in an increase to the TTP, even though the family's income has decreased, the LACDA will complete the interim reexamination.

If, during the course of an interim reexamination conducted for a reported change in family composition, it is discovered that a family member is no longer eligible for an allowance, the LACDA will continue to process the interim reexamination regardless of the effect on the TTP.

The family is required to report all changes in income, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family must notify the LACDA of changes in writing.

Within 30 calendar days of the family reporting the change, the LACDA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the LACDA will note the information in the resident file but will not conduct an interim reexamination. The LACDA will send the family written notification within 30 calendar days of making this determination informing the family that the LACDA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the LACDA will determine the documentation the family will be required to submit based on the type of change reported and LACDA policies in Chapter 7. The LACDA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 15 calendar days of receiving a request from the LACDA. If the family is non-responsive by the due date to a request for documentation, the LACDA will consider the family non-responsive. In such cases, the family will be advised in writing that the LACDA will not process the rent decrease and must start the process again if they want to receive the decrease. Should the family start the process again, the LACDA will not retroactively apply the rent decrease adjustment.

This time frame may be extended for good cause with LACDA approval. The LACDA will accept required documentation by mail, Resident Rent Café Portal, fax, or in person. The LACDA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the LACDA determines that an interview is warranted, the family may be required to attend.

## 9-III.D. EFFECTIVE DATES

### Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

#### LACDA Policy

The LACDA requires that families report any changes, such as change in family composition, to the LACDA within ten (10) calendar days of when the change occurs. Any information, document or signature needed from the family needed to verify the change must be provided within 15 calendar days of the reported change. The LACDA may grant an extension for extenuating circumstances.

If the family is non-responsive by the due date to a request for documentation, the LACDA will consider the family non-responsive. In such cases, the family will be advised in writing that the LACDA will not process the rent decrease and must start the process again if they want to receive the decrease. Should the family start the process again, the LACDA will not retroactively apply the rent decrease adjustment.

If the change is not reported within the required time period, or if the family fails to provide signatures, certifications or documentation, (in the time period requested by the LACDA), it will be considered untimely reporting.

If the family reports a change in family income or composition timely, rent changes will be processed as follows:

- For rent increases, the LACDA will provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective the first of the month following the month in which the change is reported. This means the decrease may be applied retroactively if decrease was completed following the month in which the change was reported.



## **Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]**

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

### LACDA Policy

If the family failed to report a change in family income or composition timely in accordance with LACDA policies, the family will have caused an unreasonable delay in the interim or annual recertification processing and the following guidelines will apply:

***Rent Increases:*** The tenant rent increase will be effective retroactive to the date the increase in income became effective. The family will be liable for any underpaid rent and may be required to sign a Resident Repayment Agreement (TPA). The TPA will require that the family pay an initial lump sum (in an amount determined by the LACDA) with the remaining balance to be paid in equal payments over a period of time not to exceed 12 months for amounts under \$2,400 or 24 months for any amount equal to or more than \$2,400.

***Rent Decreases:*** The tenant rent decrease will be effective on the first of the month following completion of processing by the LACDA and **not** retroactively.

### ***Procedures When the Change Is Not Processed by the LACDA in a Timely Manner***

“Processed in a timely manner” means that the change goes into effect on the date it should when the family reports the change and provides all information, documents and signatures in a timely manner. If the change cannot be made effective on that date, the change is not processed by the LACDA in a timely manner.

Therefore, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the LACDA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

## **PART IV: RECALCULATING RESIDENT RENT**

### **9-IV.A. OVERVIEW**

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### **9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]**

The resident rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

#### LACDA Policy

Unless the LACDA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

### **9-IV.C. NOTIFICATION OF NEW RESIDENT RENT**

The Public Housing Lease requires the PHA to give the resident written notice stating any change in the amount of resident rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the PHA redetermines the amount of rent (Total Resident Payment or Resident Rent) payable by the resident, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the resident must transfer to another unit based on family composition, the PHA must notify the resident that the resident may ask for an explanation stating the specific grounds of the PHA determination, and that if the resident does not agree with the determination, the resident shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

#### LACDA Policy

If there is any change in rent at the annual reexamination, including change in family's choice in rent, an Annual Notice of Change to Public Housing Lease Agreement will be issued to the family. If the resident's rent increases, a proper 30-day notice (i.e., Annual Notice of Change to Public Housing Lease Agreement/Notice of Rent Adjustment) will be provided to the family in accordance with State of California Code of Civil Procedure Section 1013. (a), and the rent increase will be effective on their anniversary date.

If the resident's rent decrease, a notice will be provided to the family within ten (10) calendar days from the date of determination.

## 9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

### LACDA Policy

When families owe money to the LACDA, every effort will be made to collect the debt. To demonstrate that the LACDA is in compliance with the efforts made to collect the debt, staff must thoroughly document the family file regarding actions taken. A variety of collection tools to recover debts may be used including, but not limited to:

- Requests for lump sum payments
- Repayment agreements
- Deductions
- Collection agencies
- Credit bureaus
- Civil suits

### ***Repayment Agreement for Families***

A Repayment Agreement is a document entered into between the LACDA and all adults in the household who owe a debt to the LACDA. The Repayment Agreement contains an acknowledgment by all adult household members of the debt in a specific amount, the terms of repayment, any special provisions of the agreement, and the remedies available to the LACDA upon default of the agreement.

### ***Late Payments***

A payment will be considered to be in arrears if:

The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears, the LACDA may do one or more of the following:

Require the family to pay the entire amount that has not been paid timely **plus** the current month's payment in order to avoid termination of tenancy, or

Require the family to pay the balance in full in order to avoid termination of tenancy, or

The terms of the agreement may be renegotiated if there is a change in financial circumstances or a hardship has occurred, or

Pursue civil collection of the balance due, or

Terminate the tenancy.

### ***Requests to Move***

If the family requests a move to another unit and has a repayment agreement in place and the repayment agreement is not in arrears, the family may be required to pay the balance in full prior to moving to the new unit.

If the family requests a move to another unit and is in arrears on a repayment agreement, unless they pay the balance in full, the request will be denied.

Under special circumstances, the LACDA may make an exception and allow a family to move without paying the entire balance of the debt if the family is current with its payments. However, the balance is still owed by the household to the original AMP. The LACDA will require the household to enter into a new Repayment Agreement that specifies the transfer of debt to the new unit through a “Repayment Agreement Addendum to the Los Angeles County Development Authority Public Housing Lease Agreement”. The LACDA may also allow a family who is in arrears to become current in order to process a move if the move is for one of the following reasons:

A natural disaster.

The unit is uninhabitable or has major UPCS deficiencies that are not the result of a family action or inaction.

A life-threatening situation, such as the family is a witness to or a victim of a crime and must move for safety reasons. The family will be required to provide proof in such cases.

Approved Reasonable Accommodation Request.

### ***Guidelines for Repayment Agreements***

The LACDA, at its sole discretion, will determine on a case-by-case basis whether or not to offer a family a repayment agreement for monies owed to the LACDA. All Repayment Agreements must be approved by a LACDA Area Manager. The offer of a Repayment Agreement does not constitute an agreement to continue the household’s assistance. However, the LACDA may propose termination of the household’s assistance upon refusal by the household to enter into a repayment agreement.

Repayment Agreements will be executed between the LACDA and the head of household or other adult family member.

The LACDA may approve in writing a decrease in the monthly payments, either temporary or permanent, in cases of hardship after receiving from the family a written request for a decrease and verification of hardship and the approval of a LACDA Area Manager.

If the LACDA offers a repayment agreement, the family has the option to repay balances as follows:

1. In a lump sum amount; or
2. A monthly payment; or
3. A combination of a lump sum and monthly payment.

The LACDA will usually ask that the household pay an initial lump sum (in an amount determined by the LACDA) with the remaining balance to be paid in equal payments over a period of time not to exceed 12 months for amounts under \$2,400 or 24 months for any amount in excess of \$2,400.

In determining the initial lump sum, the LACDA will consider the total amount owed and the ability of the household to make the remaining payments. The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed should be affordable and **not** to exceed 40 percent of the household's monthly adjusted income.

***Example:***

Family's monthly adjusted income is \$1,230.

Family's monthly rent payment is \$369 (30 percent of the family's monthly adjusted income).

Family's 40 percent of the monthly adjusted income is \$492.

The monthly payment for the repayment agreement should not exceed \$123 (\$492-\$369)

These terms may be negotiated with the Resident. The LACDA may also amend a Repayment Agreement document the change in initial payment terms.

**Family Debts Due to Fraud/Non-Reporting of Information**

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes a false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead the PHA.

Immediate payment of retroactive rent where debt is the result of resident misrepresentation or failure to disclose material information.

LACDA Policy

If the Resident submits false information on the application for eligibility, annual/interim certifications, declaration of facts, or fails to report changes in family income/composition, or other factors, the Resident is in breach of his/her Lease Agreement. The Resident is required to reimburse the LACDA if they were charged less than the amount required by HUD's rent formulas, which is the difference between the rent he/she should have paid and the rent he/she was charged. The underpaid rent will be retroactive as far back as the existence of the complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determination. The LACDA, in its sole discretion, may terminate the Lease for a material breach.

A decision by the LACDA to accept the payment of Retroactive Rent from a Resident, shall not constitute a waiver of its right to either terminate the Lease or otherwise pursue any additional actions allowable under Federal, State or local law. In addition, the case may be referred to the Inspector General and/or the LACDA may refer the case for criminal prosecution.

## **Payment of Retroactive Rent Where Debt Is Not the Result of Resident Misrepresentation or Failure to Disclose Material Information**

### LACDA Policy

The LACDA, in its sole discretion, may enter into a Repayment Agreement for a debt to the LACDA that did not result from the Resident's submission of false information on the application for eligibility, annual/interim certification, declaration of facts fails to report changes in family income/composition, or other factors as required by his/her Lease Agreement.

## **Repayment Agreements at Conclusion of Tenancy or Resolution of Eviction Proceedings**

### LACDA Policy

The LACDA may enter into a repayment agreement in resolution of a debt incurred by a Resident during the course of his or her tenancy where the Resident has indicated his or her intent to voluntarily vacate. The LACDA may also enter into a repayment agreement in resolution of either a notice to terminate or not renew a tenancy. The terms of such agreements shall be determined at the discretion of the LACDA.

## **Family Debts Paid in Full**

### LACDA Policy

If the LACDA determines not to enter into a repayment agreement, or if the repayment agreement is breached and the LACDA demands payment of the balance in full, the family must pay the full amount due and owing in one lump sum. If the family fails to pay, the LACDA may pursue collection through a collection agency or a civil action and may notify credit agencies of the debt. Whether or not the amount is paid, the LACDA does not waive its right to take other action including termination of tenancy or referral for criminal prosecution in appropriate cases.





## PART V: NON-INTERIM REEXAMINATION TRANSACTIONS

### Notice PIH 2023-27

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after policy goes into effect);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 % (decreased from 100 %) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.



**EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION**

**Example 1: Calculating Annual Income at Annual Reexamination Using EIV**

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA-published 2024 COLA is 7 %.

<u>Last reexamination – 3/1/2023 Annual Reexamination</u>	
<u>Ruby:</u>	<u>Georgia:</u>
<u>Wages: \$30,000</u>	<u>SSI: \$10,980 (\$915 monthly)</u>

The EIV report pulled on 12/15/2023

Ruby:	Georgia:
Wages Total: \$33,651	SSI Total: \$10,980
Quarter 3 of 2023: \$8,859 (City Public School)	2023 benefit \$915 monthly
Quarter 2 of 2023: \$8,616 (City Public School)	
Quarter 1 of 2023: \$8,823 (City Public School)	
Quarter 4 of 2022: \$7,353 (City Public School)	

Income Reported on Reexamination Application

Ruby:

Georgia:

Wages at City Public School: \$32,000 (switched jobs but no permanent change to amount)

SSI benefits: \$10,980 (no changes)

Calculating Ruby’s wages:

Calculating Georgia’s SSI benefit:

Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651).

Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.

Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia’s current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- % COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:

COLA: \$64.05 (\$915 x 0.07)

New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)

If Ruby did not agree with the annual wages reported in EIV, the PHA would be required to verify her current income in accordance with HUD’s verification hierarchy.

Summary of Annual Income (as reported on the HUD-50058)

Ruby (Head of Household):

Georgia (Other Youth Under 18):

Other Wage: \$33,651

SSI: \$11,748

Myers Family Total Annual Income: \$45,399

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:  
Family Disagrees with EIV**

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 %. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: \$28,000

The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha's Sweets)

Quarter 2 of 2023: \$584 (Larry's Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha's Sweets)

Quarter 4 of 2022: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

**Example 3: Calculating Annual Income at Annual Reexamination**

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha’s daughter, Hailey, did not result in a decrease of 10 % or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

<u>Samantha:</u>	<u>Fergus:</u>
Business income: \$28,000	Wages: \$8,250
VA disability pension: \$12,000	Other non-wage income: \$3,000 (Go Fund Me online fundraiser)
Child support: \$2,400	

The EIV report pulled on 9/16/2024

<u>Samantha:</u>	<u>Fergus:</u>
Wages Total: \$0 (no wage data reported since Q1 2023)	Wages Total: \$8,600
	Quarter 1 of 2024: \$2,100 (Ian’s Fish ‘n’ Chips)
	Quarter 1 of 2024: \$500 (Claire’s Healthcare Supplies)
	Quarter 4 of 2023: \$1,000 (Claire’s Healthcare Supplies)
	Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)
	Quarter 2 of 2023: \$3,200 (Ivar’s Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA’s annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian’s Fish ‘n’ Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha: Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change) VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change) Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)	Fergus: Wages: \$6,000
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Calculating Samantha’s Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha’s VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).



Calculating Samantha’s Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

Calculating Fergus’ Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian’s Fish ‘n’ Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire’s Healthcare Supplies in accordance with HUD’s verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire’s Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

<u>Calculating Fergus’ Other Non-Wage Income</u>	
Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD– 50058).	
Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.	
Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a “Go Fund Me” online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn’t solicited funds online and doesn’t plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.	
<u>Summary of Annual Income (as reported on the HUD-50058)</u>	
Samantha (Head of Household):	Fergus (Co-head):
Own business: \$18,000	Wages: \$9,360
Pension: \$12,300	
Child support: \$1,200	
Poole Family Total Annual Income: \$40,860	

## CHAPTER 10

### PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

#### INTRODUCTION

This chapter explains the PHA's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the PHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the PHA. This policy is also intended to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of a pet. It also establishes reasonable rules governing the keeping of common household pets.

These policies and procedures implement the provisions of Title 24 Code of Federal Regulations § 5.300-5.380 and 24 CFR § 960.701 (if applicable), and HUD Final Rule Pet Ownership for the Elderly and Persons with Disabilities (October 27, 2008).

Nothing in this policy or the dwelling lease limits or impairs the right of persons with disabilities to own animals that are used to assist them.

The chapter is organized as follows:

**Part I: Assistance Animals.** This part explains the difference between assistance animals (i.e., service and support animals), and pets. It also contains policies related to the designation of an assistance animal as well as their care and handling.

**Part II: Pet policies for all developments.** This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

**Part III: Pet deposits and fees for elderly/disabled developments.** This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

**Part IV: Pet deposits and fees for general occupancy developments.** This part contains policies for pet deposits and fees that are applicable to general occupancy developments.



## **PART I: ASSISTANCE ANIMALS**

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705;  
Notice FHEO 2020-01]

### **10-I.A. OVERVIEW**

This part discusses situations under which permission for an assistance animal, including service and support animals, may be denied, and establishes standards for the care of assistance animals.

Notice FHEO 2020-01 was published January 28, 2020. The notice provides guidance to help PHAs and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies. FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals. The guidance in FHEO 2020-01 should be read together with HUD's regulations prohibiting discrimination under the Fair Housing Act (FHA) and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act. Housing providers may also be subject to the Americans with Disabilities Act (ADA) and should therefore refer also to DOJ's regulations implementing Titles II and III of the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on assistance animals.

There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (i.e., support animals).

Assistance animals, including service and support animals, are not pets and thus are not subject to the PHA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

## 10-I.B. APPROVAL OF ASSISTANCE ANIMALS [Notice FHEO 2020-01]

### Service Animals

Notice FHEO 2020-01 states that PHAs should initially follow the Department of Justice (DOJ) analysis to assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA). Under the ADA, a *service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained, or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:

- Is the animal a dog? If not, the animal is not a service animal but may be another type of assistance animal for which an accommodation is needed (support animal).
- Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of the individual with a disability? If yes, no further inquiries are required because the animal is a service animal. If not, the LACDA will limit its inquiries to the following two questions:
  - (1) Is the animal required because of the disability? **and**
  - (2) What work or task has the animal been trained to perform?

If the answer to question (1) is “yes” and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable. If the answer to either question is “no,” the animal does not qualify as a service animal but may be a support animal.

A service animal must be permitted in all areas of the facility where members of the public are allowed.

### Support Animals (Assistance Animals other than Service Animals)

If the animal does not qualify as a service animal, the PHA must next determine whether the animal would qualify as a support animal (other type of assistance animal). If the individual has indeed requested a reasonable accommodation to get or keep an animal in connection with a physical or mental impairment or disability, the PHA may use the following questions to help them assess whether to grant the accommodation in accordance with the policies outlined in Chapter 2 (the PHA is not required to grant a reasonable accommodation that has not been requested):

- Does the person have an observable disability or does the PHA already have information giving them reason to believe that the person has a disability? If not, has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?

- If the person has an observable disability, the PHA already has information giving them reason to believe the person has a disability, or the person has provided information supporting that they have a disability, then has the person provided information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual’s disability?
- If yes, is the animal commonly kept in households? An *animal commonly kept in households* would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

If the individual is requesting to keep a unique animal not commonly kept in households, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. Such individuals are encouraged to submit documentation from a health care professional.

### **General Considerations**

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person’s disability and their need for the animal [PH Occ GB, p. 179].

Before denying a reasonable accommodation request due to lack of information confirming an individual’s disability or disability-related need for an animal, the PHA is encouraged to engage in a good-faith dialog with the requestor called the “interactive process” [FHEO 2020-01].

A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA’s refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation.
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others.

The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two (2) people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

PHAs have the authority to regulate service animals and assistance animals under applicable Federal, State, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

### LACDA Policy

Residents who need an assistance animal must follow the reasonable accommodation request procedures when necessary.

### ***Service Animal***

For an animal to be excluded from the pet policy and be considered a **service** animal, it must be any dog, which is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. A resident who requests for a **service** animal does not require a submittal of a reasonable accommodation verification form as delineated in Chapter 1. The LACDA may only ask whether the animal is a **service** animal required due to a disability, and what tasks the animal has been trained to perform.

1. The LACDA will not require proof of training or certification for a service animal, even if the disability and/or tasks performed are not readily apparent.
2. If the disability and/or tasks performed are readily apparent, no further inquiries may be made.

### ***Support Animals (Assistance Animals other than Service Animals)***

For an animal to be excluded from the pet policy and be considered a **support** animal, may be a dog or an animal other than dog, which provides emotional support to a person with disabilities when there is a disability-related need for such support. Assistance animals are not required to be trained or certified. The family must request a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

In accordance with Section 504 of the Rehabilitation Act and the Fair Housing Act, pet rules will not be applied to assistance animals that assist persons with disabilities except as provided below:

- There is reliable objective evidence that the assistance animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation;
- There is reliable objective evidence that the assistance animal would cause substantial physical damage to the property of others;



- The presence of the assistance animal would pose an undue financial and administrative burden to the provider; or
- The presence of the assistance animal would fundamentally alter the nature of the provider's services.

A determination that an assistance animal poses a threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct.

## **10-I.C. CARE AND HANDLING**

HUD regulations do not affect any authority a PHA may have to regulate assistance animals, including service animals, under Federal, State, and Local law [24 CFR 5.303; 24 CFR 960.705].

### LACDA Policy

Assistance animal must be registered with the LACDA at least ten (10) days before it is brought onto the premises and must be license and inoculated in accordance with State and local law.

Residents must submit verification that the assistance animal is current with the license and inoculation at each annual certification.

Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals. A resident may do this on their own or with the assistance of family, friends, volunteers, or service providers.

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, the LACDA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the LACDA determines that no such accommodation can be made, the LACDA may withdraw the approval of a particular assistance animal.

A service and assistance animal are permitted in all areas of the facility where members of the public are allowed, including the tenant's unit. Additionally, all lease provisions apply, including maintaining a clean, sanitary unit and ensuring neighbors enjoy the premises in a peaceful, quiet, nonthreatening environment. Breed, size, and weight limitations may not be applied to a service or assistance animal.



## **PART II: PET POLICIES FOR ALL DEVELOPMENTS**

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

### **10-II.A. OVERVIEW**

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments including General Occupancy properties and Elderly Designated properties.

### **10-II.B. MANAGEMENT APPROVAL OF PETS**

#### **Registration of Pets**

PHAs may require registration of the pet [24 CFR 960.707(b)(5)].

#### LACDA Policy

All pets must be approved in advance by the LACDA before they are brought onto the premises. Pets must meet the pet standards and the resident must enter into a Pet Agreement with the LACDA.

Pets must be registered with the LACDA at least ten (10) days before it is brought onto the premises and must be license and inoculated in accordance with State and local law.

Registration must include:

- Documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.
- Current animal license.
- Sufficient information to identify the pet and to demonstrate that it is a common household pet, including, two color photograph of their pet(s).
- Display a “Pet Here” sticker, provided by the LACDA, which will be displayed on the front door or window of the resident/pet owner’s unit at all times.
- The name, address, and phone number of at least one responsible party who will care for the per if the owner dies or is unable to provide care.
- The resident/pet owner’s acknowledgment indicating that s/he has read the pet rules and agrees to be bound by the.

Pets will not be approved to reside in a unit until the registration requirements are completed.

At each annual reexamination, residents must submit verification that pet is current with its license and inoculation.

## **Refusal to Register Pets**

### LACDA Policy

The LACDA will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below;

Keeping the pet would violate any pet restrictions listed in this policy or applicable house pet rules;

The resident/pet owner fails to provide complete pet registration information, or fails to update the registration annually;

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order;

The LACDA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the LACDA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the LACDA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the LACDA's grievance procedures. Notice of a decision shall be served in conformance with the requirements of 24 CFR § 5.353(f).

## **Pet Agreement**

### LACDA Policy

Residents who have been approved to have a pet must enter into a pet agreement with the LACDA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that they have received a copy of the LACDA's pet policy and applicable house rules, that they have read the policies and/or rules, understand them, and agree to comply with them.

The resident further certifies by signing the pet agreement that they understand that noncompliance with the LACDA's pet policy and applicable house rules may result in the withdrawal of LACDA approval of the pet or termination of tenancy.

## 10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size;
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law;
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal; and,
- Requiring pet owners to have their pets spayed or neutered;

Cat declawing is not a requirement or condition of pet ownership in public housing and HUD encourages PHAs to refrain from engaging in this practice [New PH OCC GB, *Pet Ownership*, p. 9].

PHAs may not require pet owners to have any pet's vocal cords removed.

PHAs may not require pet owners to obtain or carry liability insurance.

### Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

#### LACDA Policy

*Common household pet* means a domesticated animal, such as a dog, cat, bird, rodent (including rabbit), tortoise, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are **not** considered common household pets:

Reptiles (except turtle/tortoise)

Insects

Arachnids

Wild animals or feral animals that are not amenable to routine human handling.

Any poisonous animals of any kind

Pot-bellied pigs

Animals used for commercial breeding

If this definition conflicts with any applicable California State or local law or regulation defining the pets that may be owned or kept in dwelling accommodations, California State or local law or regulation shall apply.

## **Pet Restrictions**

### LACDA Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 30 pounds

Vicious or intimidating dogs. Under California law (Food and Agriculture Code Sec. 31603), a “vicious” dog is defined as, but not limited to:

- Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.
- Any dog previously determined to be and currently listed as a potentially dangerous dog that, after its owner or keeper has been notified of this determination, continues the behavior described in Section 31602 or is maintained in violation of Section 31641, 31642, or 31643

Any dog seized under Section 599aa of the California Penal Code and upon the sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.5 of the Penal Code.

Dogs of the pit bull, rottweiler, chow, or boxer breeds

Any dog breeds that have been determined to be “potentially dangerous” or “vicious” under California law or local animal control ordinance.

Fish in aquariums exceeding ten (10) gallons in capacity.

Non-human primates.

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations.

Hedgehogs or other animals whose protective instincts and natural body armor produce a risk of serious puncture injury to children.

Chicks or other animals that pose a significant risk of salmonella infection to those who handle them.

Pigeons, doves, mynahs, psittacine, and birds of other species that are hosts to the organisms that cause psittacosis in humans.

Any animal that, due to its size, nature or disposition, presents a risk to the public health or safety or cannot be properly cared for due to its physical needs.

Wild, feral, or any other animals that are not amenable to routine human handling.

Animals whose climatological needs cannot be met in the unaltered environment of the individual dwelling unit.

Any other animal not permitted under State or local law or code

## **Number of Pets**

### LACDA Policy

Residents may own a maximum of two (2) common household pets. Of this total, residents may only have a maximum of one (1) dog or rodent.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to ten (10) gallons. Such a tank or aquarium will be counted as 1 pet.

### **Dogs**

Maximum number: 1

Maximum adult weight: 30 pounds

Must be housebroken

Must be spayed or neutered

Must have all required inoculations

Must be licensed as specified now or in the future by State law and local ordinance

Any litter resulting from the pet must be removed as soon as the puppies are weaned or are eight weeks of age.

### **Cats**

Maximum number: 2

Must be a household cat

Must be spayed or neutered

Must have all required inoculations

Must be trained to use a litter box or other waste receptacle

Must be licensed as specified now or in the future by State law or local ordinance

Any litter resulting from the pet must be removed as soon as the kittens are weaned or are eight weeks of age.

### **Birds**

Maximum number: 2

Must be enclosed in a cage at all times.

### **Fish**

Maximum aquarium size: (10 gallons)

Must be maintained on an approved stand.

**Rodents** (rabbit, guinea pig, or hamster ONLY)

Maximum number: 1

Must be enclosed in an acceptable cage at all times.

Must have any or all inoculations as specified now or in the future by State law or local ordinance.

**Other Requirements**

LACDA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching six (6) months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Dogs must be housebroken. Any litter resulting from the pet must be removed as soon as the puppies are weaned or are eight weeks of age.

Cats must be trained to use a litter box or other waste receptacle. Any litter resulting from the pet must be removed as soon as the puppies are weaned or are eight weeks of age.

Pets must be licensed and inoculated in accordance with state or local law. Residents must provide proof of licensing and inoculation at the time of registration and annually, in conjunction with the resident's annual reexamination.

Birds and rodents must be enclosed in an acceptable cage at all times.



## **10-II.D. PET RULES**

Pet owners must maintain pets responsibly, in accordance with PHA policies, and in compliance with applicable State and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

### **Pet Area Restrictions**

#### LACDA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be supervised and under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in the following area: management offices including lobbies, community rooms, recreation center (except such areas that would deny access to the building), and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste in any interior common area of the Housing Development.

### **Cleanliness**

#### LACDA Policy

The resident/pet owner shall be responsible for promptly and completely removing waste from the unit and common area by placing it in a sealed plastic bag and properly disposing of it. Failure to remove pet waste in common areas will result in a Pet Waste Removal charge for each separate violation of the waste removal requirement (see Part III for Elderly properties and Part IV for General Occupancy properties).

The resident/pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Resident/Pet owners must promptly dispose of waste from litter boxes in sealed plastic bags and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit or in animal enclosure maintained within the dwelling unit AND must be maintained in a sanitary manner.

### **Alterations to Unit**

#### LACDA Policy

Resident/Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited.

## Noise

### LACDA Policy

Resident/Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or in common areas. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

## Pet Care

### LACDA Policy

Each resident/pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for their pet.

Each resident/pet owner shall be responsible for appropriately training and caring for their pet to ensure that the pet is not a nuisance or danger to other residents and does not damage LACDA property.

Each resident/pet owner shall be responsible for the mandatory implementation of flea control, for their pet(s), by measures that produce no toxic hazard to children who may come in contact with treated animal(s).

No animals may be tethered or chained inside or outside the dwelling unit at any time.

All complaints of cruelty and all mammalian bites will be referred to animal control of applicable policy agency for investigation and enforcement.

No pet (excluding fish) shall be left unattended in any apartment for a period in excess of 24 hours.

The LACDA reserves the right to seek impoundment and sheltering of any animal found to be maintained in violation of housing rules, pending resolution of any dispute regarding such violation, at owner's expense. The resident shall be responsible for any impoundment fees, and the LACDA accepts no responsibility for pets so removed.

In the event the resident/pet owner is temporarily relocates to a privately-owned apartment complex or hotel at the request of the LACDA to complete emergency repairs to the resident's unit and/or complete modernization and/rehabilitation activities, the resident shall have the responsibility for the board and care of their pet(s) during the duration of the resident's relocation.

That failure to abide by any animal-related requirement or restriction constitutes a violation of the "Resident Obligations" in the resident's Lease Agreement.

## **Responsible Parties**

### LACDA Policy

The resident/pet owner is responsible and liable for all damages caused by their pet(s).

The resident/pet owner will be required to designate one (1) responsible party for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the LACDA and sign a statement that they agree to abide by all of the pet rules.

## **Inspections and Repairs**

### LACDA Policy

Except for emergencies, management will not enter the dwelling unit for performance of repairs or inspections where a pet resides unless accompanied for the entire duration of the inspection or repair by the pet owner or responsible person designated by the pet owner. The pet must be held under physical restraint by the pet owner or responsible person until management has completed its tasks. Any delays or interruptions suffered by management in the inspection, maintenance, and upkeep of the premises due to the presence of a pet may be cause for lease termination.

The LACDA shall be permitted, as authorized by the Lease Agreement, after reasonable notice to the tenant and during reasonable hours, to enter and inspect the premises. The lease shall permit entry and inspection only if the LACDA has received a signed, written complaint alleging or has reasonable grounds to believe that the conduct or condition of a pet in the dwelling unit constitutes, under applicable State or local law, a nuisance or a threat to the health or safety of the occupants of the project or other persons in the community where the Housing Development is located.

The LACDA shall enter the dwelling unit, as authorized by the Lease Agreement, when there is evidence that an animal is left alone in danger or distress or is creating a nuisance.

## **Pets Temporarily on the Premises**

### LACDA Policy

Pets that are not owned by a resident are not allowed on the premises or that is temporarily present for a period in excess of 14 days.

Residents are prohibited from feeding or harboring stray animals.

## **Pet Rule Violations**

### LACDA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner is entitled to be accompanied by another person of their choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

## **Notice of Pet Rule Violations**

### LACDA Policy

If the LACDA determines on the basis of objective facts, supported by written statements, that a resident/pet owner has committed a violation of a rule governing the owning or keeping of pets, the LACDA may serve a written notice of a pet rule violation. The notice of violation must:

- Contain a brief statement of the factual basis for the determination and the pet rule or rules alleged to be violated.
- State that the resident/pet owner has ten (10) calendar days from the effective date of service of the notice to correct the violation (including appropriate circumstances, removal of the pet) or to make a written request for an informal conference to discuss the violation.
- State that resident/pet owner is entitled to be accompanied by another person of his or her choice at the informal conference.
- State that the resident/pet owner's failure to correct the violation, to request an informal conference, or to appear at the informal conference may result in initiation of procedure to terminate the tenant's tenancy.
- If the resident/pet owner requests a meeting, the LACDA shall establish a mutually agreeable time and place for the meeting. Such a meeting shall take place no later than 15 calendar days from the effective date of service of the notice of the pet violation (unless the LACDA agrees to a later date). At the informal conference, the resident/pet owner and the LACDA shall discuss any alleged pet rule violation and attempt to correct it. The LACDA may, as a result of the meeting, give the resident/pet owner additional time to correct the violation.

## **Notice for Pet Removal**

### LACDA Policy

If the resident/pet owner and the LACDA are unable to resolve the violation at the pet rule violation meeting or if the LACDA determines that the resident/pet owner has failed to correct the pet rule violation in the time period allotted by the LACDA, the LACDA may serve notice to remove the pet in accordance with 24 CFR § 5.353(f)(1)(i) or (ii).

The notice will contain:

- A brief statement of the factual basis for the LACDA's determination and the pet rule(s) alleged to be violated;
- The requirement that the resident /pet owner must remove the pet within ten (10) calendar days of the notice (or the meeting, if the notice is served at the meeting);
- A statement that failure to remove the pet may result in the initiation of procedures to terminate the resident/pet owner.

## **Pet Removal for the Protection of Pets**

### LACDA Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner. Includes pets who are poorly cared for or have been left unattended for over 24 hours.

If the responsible party is unwilling or unable to care for the pet, or if the LACDA after reasonable efforts cannot contact the responsible party, the LACDA may contact the appropriate state or local agency and request the removal of the pet.

If there is no State or local authority (or designated agent of such an authority) authorized to remove a pet under these circumstances and the LACDA has placed a provision in the lease agreement (as described in Sec. 5.360(c)(2)), the LACDA may enter the pet owner's unit, remove the pet, and place the pet in a facility that will provide care and shelter until the resident/pet owner or a representative of the resident/pet owner is able to assume responsibility for the pet, but not longer than 30 days.

The cost of the animal care facility provided under this section shall be borne by the resident/pet owner. If the resident/pet owner (or the pet owner's estate) is unable or unwilling to pay, the cost of the animal care facility may be paid from the pet deposit, if imposed under the pet rules.

## **Termination of Tenancy**

### LACDA Policy

The LACDA may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the applicable time period specified.

The pet rule violation is sufficient to begin procedures to terminate the resident/pet owner's tenancy under terms of the lease and applicable regulations.

- The LACDA shall have the right to initiate procedures to remove a pet under 24 CFR § 5.327 (Nuisance of Threat to Health or Safety) at any time, in accordance with the provisions of applicable State or local law.

## **Emergencies**

### LACDA Policy

The LACDA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the LACDA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

The LACDA shall be permitted, as authorized by the Lease Agreement, to undertake the following actions in response to an emergency:

- If there is no State or local authority (or designated agent of such an authority) authorized under applicable State or local law to remove a pet that becomes vicious, displays symptoms of severe illness, or demonstrates other behavior that constitutes an immediate threat to the health or safety of the tenancy as a whole, the LACDA may place a provision in tenant leases permitting the LACDA to enter the premises (if necessary), remove the pet, and take such action with respect to the pet as may be permissible under State and local law, which may include placing it in a facility that will provide care and shelter for a period not to exceed 30 days.
- If authorized by the lease agreement, the LACDA shall be permitted to enter the premises and remove the pet or take such other permissible action only if the LACDA requests the pet owner to remove the pet from the project immediately, and the pet owner refuses to do so, or if the project owner is unable to contact the pet owner to make a removal request. The lease may not contain a provision relieving the LACDA from liability for wrongful removal of a pet. The cost of the animal care facility shall be paid as provided in 24 CFR § 5.363.
- The LACDA may place a provision in tenant leases permitting the LACDA the right to enter the premises, remove the pet, and place the pet in a facility that will provide care and shelter, in accordance with the provisions of 24 CFR § 5.363. The lease may not contain a provision relieving from liability for wrongful removal of a pet.

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

### **10-III.A. OVERVIEW**

This part describes the LACDA's policies for pet deposits and fees in Elderly, Disabled and Mixed Population developments. Policies governing deposits and fees in General Occupancy developments are described in Part IV.

### **10-III.B. PET DEPOSITS**

#### **Payment of Deposit**

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

#### LACDA Policy

A resident/pet owner who owns or keeps a dog or cat shall be required to pay a refundable deposit in an amount of **\$75.00**. This deposit is in addition to any other financial obligation generally imposed on tenants of the Housing Development. Pet deposit payment does not apply to families with assistance or service animals.

For pet deposits subject to paragraph 24 CFR § 5.318 (d)(2)(i)(A), the resident/pet owner may pay the pet deposit through gradual accumulation of the deposit through an initial payment not to exceed \$50 when the pet is brought onto the premises, and subsequent monthly payments not to exceed \$10 per month until the amount of the deposit is reached.

The pet deposit and pet waste removal charges are **not** part of rent payable by the resident.

#### **Refund of Deposit [24 CFR 5.318(d)(1)]**

The PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

#### LACDA Policy

The LACDA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 days of move-out or removal of the pet from the unit.

The LACDA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet in the Housing Development, including (but not limited to) the

cost of repairs and replacements to, and fumigation of, the tenant's dwelling unit and the cost of animal care facilities under 24 CFR § 5.363. The LACDA shall refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the Housing Development or no longer owns or keeps a cat or dog in the dwelling unit.

The resident will be billed for any amount that exceeds the pet deposit.

The LACDA will provide the resident or designee identifies above with a written list of any charges against (i.e., Final Statement) the pet deposit. If the resident disagrees with the amount charged to the pet deposit, the LACDA will provide a meeting to discuss the charges.

### **10-III.C. OTHER CHARGES**

#### **Pet-Related Damages During Occupancy**

##### LACDA Policy

All reasonable expenses incurred by the LACDA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.F, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

#### **Pet Waste Removal Charge**

The regulations do not address the LACDA's ability to impose charges for house pet rule violations. However, charges for violation of LACDA pet rules may be treated like charges for other violations of the lease and LACDA tenancy rules.

##### LACDA Policy

All fecal matter deposited by the pet(s) must be promptly and completely removed from any common area. Failure to do so will result in a Pet Waste Removal charge.

A separate pet waste removal charge of **\$5.00** per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the LACDA may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.



## **PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS**

### **10-IV.A. OVERVIEW**

This part describes the LACDA's policies for pet deposits and fees for those who reside in General Occupancy developments.

### **10-IV.B. PET DEPOSITS**

A PHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The PHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

#### **Payment of Deposit**

##### LACDA Policy

Reside/pet owners are required to pay a pet deposit of \$200 per unit for the purpose of defraying all reasonable costs directly attributable to the presence of a pet. The deposit must be paid in full before the pet is brought on the premises. The deposit fee shall not apply to birds and fish.

The pet deposit is not part of rent payable by the resident.

#### **Refund of Deposit**

##### LACDA Policy

The LACDA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 days of move-out or removal of the pet from the unit.

The LACDA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet in the Housing Development, including (but not limited to) the cost of repairs and replacements to, and fumigation of, the tenant's dwelling unit and the cost of animal care facilities under 24 CFR § 5.363. The LACDA shall refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the Housing Development or no longer owns or keeps a cat or dog in the dwelling unit.

The resident will be billed for any amount that exceeds the pet deposit.

The LACDA will provide the resident or designee identified above with a written list of any charges against (i.e., Final Statement) the pet deposit. If the resident disagrees with the amount charged to the pet deposit, the LACDA will provide a meeting to discuss the charges.

## **10-IV.C. OTHER CHARGES**

### **Pet-Related Damages During Occupancy**

#### LACDA Policy

All reasonable expenses incurred by the LACDA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project, if applicable

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.F, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

### **Pet Waste Removal Charge**

The regulations do not address the LACDA's ability to impose charges for house pet rule violations. However, charges for violation of LACDA pet rules may be treated like charges for other violations of the lease and LACDA tenancy rules.

#### LACDA Policy

All fecal matter deposited by the pet(s) must be promptly and completely removed from any common area. Failure to do so will result in a Pet Waste Removal charge.

A separate Pet Waste Removal charge of \$50.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 30 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

## CHAPTER 11

### COMMUNITY SERVICE AND SELF-SUFFICIENCY REQUIREMENT (CSSR)

#### INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all nonexempt adults living in public housing.

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

**Part I: Community Service Requirements.** This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

**Part II: LACDA Implementation of Community Service.** This part provides LACDA policy regarding implementation and program design.



## **PART I: CSSR REQUIREMENT**

### **11-I.A. OVERVIEW**

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per 903.7(1)(1)(iii), the PHA Plan must contain a statement of how the PHA will comply with the community service requirement, including any cooperative agreement that the PHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

## 11-I.B. REQUIREMENTS

Each adult resident of the PHA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service (not including political activities); or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].
- The family will be provided with a self-certification form at each annual to self-certify their community service hours or self-sufficiency activity for the prior 12 months.

### Definitions

#### Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

The LACDA shall provide an exemption from the community service requirement for any adult resident who meets the following HUD exemption criteria:

- Is age 62 years or older;
- Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions;
- Is a primary caretaker of such an individual;
- Is engaged in work activities (Notice PIH 2003-17 (HA))

#### LACDA Policy

The LACDA will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption. Is able to meet requirements of being exempted under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 501 et seq.), or under any other welfare program of the State in which the LACDA is located, including a State-administered Welfare-to-Work program;

- This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 501 et seq.), or under any other welfare program of the state in which the LACDA is located, including a State-administered Welfare-to-Work program and the Supplemental Nutrition Assistance Program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

## **Community Service [24 CFR 960.601(b), Notice PIH 2015-12]**

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

- Participation in a Family Learning Center Literacy Program as a reading tutor and/or reading listener;
- Participation in activities which support the Family Learning Center, such as, but not limited to, after-school tutoring, summer programs, being a chaperone for educational field trips, assisting with events and programs related to youth/adult education and literacy;
- Participation in the site Resident Council as an elected board member or performing activities related to the Resident Council that total eight (8) hours per month;
- Participation in activities which support the Family Resource Center, such as, but not limited to, being a chaperone for youth and senior field trips, assisting with community events and family/youth programs, and other activities related to youth development, recreation, and family self-sufficiency;
- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing);
- Nonprofit organizations serving LACDA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs;
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts;
- LACDA housing to improve grounds or provide gardens (so long as such work does not alter the LACDA'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 LACDA-run self-sufficiency activities including supporting computer learning centers; and,
- Care for the children of other residents so parent may volunteer

### LACDA Policy

Pursuant to 24 CFR 960.609, community service activities do not include work performed by a resident that would ordinarily be performed by a LACDA employee. However, residents may do community service on the LACDA property or with or through LACDA programs to assist with or enhance work done by a LACDA employees.

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

### **Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]**

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

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

- Job readiness or job training while not employed;
- Training programs through local One-Stop Career Centers, Workforce Investment Boards (local entities administered through the U.S. Department of Labor), or other training providers;
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

In general, economic self-sufficiency programs include: job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management skills training, apprenticeship, or any other program necessary to ready a participant for employment.

#### LACDA Policy

In addition to the activities listed above, the LACDA authorizes the following economic self-sufficiency activities:

- Participation in the LACDA Family Self Sufficiency Program.
- Other activities which further the goals of economic self-sufficiency as approved on an individual basis by the LACDA.

The LACDA will ensure that all community service activities which take place on LACDA property are accessible for persons with disabilities.



## **Work Activities [42 U.S.C. 607(d)]**

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
- On-the-job training;
- Job search and job readiness assistance;
- Community service programs;
- Vocational educational training (not to exceed 12 months with respect to any individual);
- Job skills training directly related to employment;
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency; and,
- 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.

**Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016- 06]**

The PHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for PHA verification of exempt status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirement.

LACDA Policy

The LACDA will provide the family with a CSSR Entrance Agreement at the new admissions, new member add-on, and members who have reached the age 18 for families that are not exempt from the CSSR requirements. Additionally, the families will be provided with the Annual CSSR Agreement at lease-up, lease renewal, when an adult family member is determined to be subject to the CSSR during the lease term, and at any time upon the family's request. The LACDA accept self-certifications (form provided by the LACDA) of the CSSR hours completed.

On an annual basis, at the time of lease renewal, the LACDA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. The LACDA allows the self-certification of the CSSR hours completed. The LACDA will provide a self-certification form and must be completed by each adult member to include the hours completed., type of service, supervisor contact name and number.

## **11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]**

The PHA must review and verify family compliance with service requirements annually at least 30 days before the next annual recertification. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

### **Annual Determination**

#### **Determination of Exemption Status**

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

##### LACDA Policy

The LACDA will review and verify the exemption status of all adult family members at the annual recertification unless the family reports a change or the LACDA has reason to believe that an individual's exemption status has changed. Adult residents who are 62 years of age and older will not need a verification of exemption status.

Upon completion of the verification process, the LACDA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

#### **Determination of Compliance**

The PHA must review resident family compliance with service requirements annually at least 30 days before the end of the twelve- month lease term [24 CFR 960.605(c)(3)]. As part of this review, the PHA must verify that any family member that is not exempt from the community service requirement has met their service obligation.

##### LACDA Policy

During the annual recertification process, the LACDA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the LACDA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or LACDA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

The LACDA will enter into a Work-Out Agreement with the family member that is not meeting the CSSR requirement. Failure to comply will result in the non-lease renewal and up to termination of assistance.

## Change in Status between Annual Determinations

### LACDA Policy

#### *Exempt to Nonexempt Status*

If an exempt individual becomes nonexempt during the 12-month lease term, it is the family's responsibility to report this change to the LACDA within five (5) business days.

Within 10 calendar days of a family reporting such a change, or the LACDA determining such a change is necessary, the LACDA will provide written notice of the effective date of the requirement and a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following the date the change was reported.

#### *Determination of Initial Compliance*

When an adult family member becomes subject to community service, they must perform 8 hours of community service for the months they are subject to the requirement before the end of the lease term (anniversary date).

Example 1: Alberto Jones turns 18 on 5/10/24 and is not exempt from the community service requirement. His community service requirement begins on 6/1/24, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/24.

- Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2: Lisa Dewhurst begins higher education classes 7/20/24 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/24, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/25.

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

## Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the 12-month lease term, it is the family's responsibility to report this change to the LACDA within 10 business days. Any claim of exemption will be verified by the LACDA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or the LACDA determining such a change is necessary, the LACDA will provide the family written notice that the family member is no longer subject to the community service requirement, if the LACDA is able to verify the exemption.

The exemption will be effective immediately. The now-exempt adult resident shall only be responsible for the balance of community service hours for the time they were categorized as nonexempt during the 12-month lease term (next annual recertification).

Example 1: Tony Campo begins working on 5/10/24 and is now exempt from the community service requirement. His community service requirement is exempt effective on the date is verified Anniversary date is 2/1/25.

- Tony must perform 3 months of community service for his initial compliance period determined on 2/1/2024. Community service months need to be completed before the end of the lease term (1/31/2025).

Example 2: Shelly Brooks begins higher education courses on 8/20/24 and is now exempt from the community service requirement. Her community service requirement is exempt effective the date of verification. Anniversary date is 11/1/24.

- Shelly must perform 9 months of community service for her initial compliance period determined on 11/1/2023. Community service months need to be completed before the end of the lease term (10/31/2024).

## **11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 60.07, Notice PIH 2016-08]**

The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

### **Documentation and Verification of Exemption Status**

#### LACDA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The LACDA will provide a completed copy to the family and will keep a copy in the tenant file.

The LACDA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The LACDA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the LACDA's determination, s/he can dispute the decision through the LACDA's grievance procedures (see Chapter 14).

### **Documentation and Verification of Compliance**

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the PHA of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12].

If qualifying community service activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide documentation required by the PHA. The PHA may require a self-certification or certification from a third party [24 CFR 960.607].

If the PHA accepts self-certification of compliance with the community service requirement, it must provide a form which includes a statement that the client performed the required hours, contact information for the community service provider, a description of activities performed, and dates of service.

If the PHA accepts self-certification, it must validate a sample of certifications through third-party documentation. The PHA must notify families that self-certification forms are available and that a sample of self-certifications will be validated.

HUD strongly encourages PHAs to investigate community service compliance when there are questions of accuracy.

### LACDA Policy

Each adult resident that is subject to the community service requirement will be required to provide a completed self-certification form provided by the LACDA for each organization or person for which the resident performed the CSSR activity..

Families will be required to submit the documentation to the LACDA, upon request by the LACDA, at least annually.

The LACDA's self-certification form includes the following information:

- A statement that the resident has completed the number of hours listed and that the statement is subject to penalties of perjury;
- The number of hours and type of activity (community service or self-sufficiency) that the resident completed;
- The name of the organization or person for which the activity was completed;
- The address of the organization or person;
- The phone number of the organization or person;
- A contact person in the organization or the person for which the activity was completed.

### **Fraudulent Self-Certification**

#### LACDA Policy

If the LACDA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the LACDA has the right to require additional third-party verification.

The LACDA will deem the resident noncompliant pursuant to 24 CFR 960-607 and will issue a notice to comply with CSSR. If the resident agrees to sign a work-out agreement, the LACDA shall obtain written third-party documentation of the resident's compliance with the requirements of the work out agreement. Should the resident refuse to enter into a work-out agreement, the LACDA shall take steps to terminate the tenancy of the resident by the next recertification/12-month period. (PIH Notice 2015-12).

### **Residents Ineligible for Community Service Requirement Self-Certification**

#### LACDA Policy

The LACDA will not accept resident self-certification for a resident subject to a work-out agreement until the resident has completed, and the LACDA has verified through a third party, that the resident has completed the required hours. For these residents, if community service activities are administered by an organization other than the LACDA, the LACDA will obtain a third-party verification.

## **Annual Community Service Requirement Self-Certification HUD Validation Requirements (24 CFR 960.605)**

### LACDA Policy

The LACDA must validate a sample of self-certifications with the third-party for whom the resident completed the community service or self-sufficiency activity. The sample of self-certifications the LACDA validates shall be a statistically valid, random sample. HUD PIH Notice 2016-06 provides the appropriate sampling methodology to be used by the LACDA when determining how many self-certifications must be validated annually.

For example, if the LACDA has a universe of self-certifications of 50 must validate at least 29 of the self-certifications to meet the statistically valid requirement. The LACDA with a universe of 500 must validate 60 self-certifications to meet the statistically valid requirement. The “universe” of self-certification shall only include residents that submitted a self-certification, and shall not include:

1. Residents that are under the age of 18 years or 62 years or older;
2. Residents that are exempt;
3. Residents for which the LACDA receives third part verification of completion of the community service requirement; and
4. Residents that did not complete the required community service requirement.

Due to the number of residents subject to the community service requirement constantly fluctuating due to unit turnover, resident employment, etc., the LACDA shall choose a point in time annually to calculate the universe of self-certification received during the previous 12 months.

### Validating the Community Service Requirement

To validate a self-certification, the LACDA shall obtain a third-party documentation that includes, at a minimum, the name of the organization or person, the number of hours completed by the resident, a signature from the appropriate staff person within the third-party organization or person and that staff person’s contact information. Consistent with the written third-party verification techniques outlined in PIH Notice 2010-19, the LACDA may accept third-party generated documentation directly from the third-party or from the resident.



## 11-I.E. NONCOMPLIANCE

### Noncompliant Residents

The lease specifies that it is renewed automatically for all purposes unless the family fails to comply with the CSSR and families determined to be over-income for 24 consecutive months. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the 12-month lease term, but not for termination of tenancy during the course of the 12-month lease term [24 CFR 960.603(b)].

PHAs may not evict a family due to CSSR noncompliance. However, if PHA finds a tenant is noncompliant with CSSR, the PHA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that the PHA will not renew the Lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the PHA or the family provides written assurance that is satisfactory to the PHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

The notice must also state that the tenant may request a grievance hearing on the PHA's determination, in accordance with the PHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of the PHA's determination.

#### LACDA Policy

The notice of noncompliance will be sent at least 45 days prior to the end of the lease term, notice will include a brief description of the finding of non-compliance with the CSSR, including a statement that the LACDA will not renew the Lease Agreement at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the LACDA or the family provides written assurance that is satisfactory to the LACDA explaining that the tenant or other noncompliant resident no longer resides in the unit.

Such written work-out agreement will include the means through which a noncompliant family member will comply with the CSSR requirement.

The family will have must comply by the established due date to enter into a written work-out agreement to cure the noncompliance over the 12-month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has vacated the unit before the LACDA will agree to continued occupancy of the family.

Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing or does not take either corrective action required by the notice of noncompliance within the required established due date, the LACDA will terminate tenancy in accordance with the policies in Section 13-IV.D.

### **Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]**

Should a family member refuse to sign a written work-out agreement or fail to comply with the terms of the work-out agreement, PHAs are required to initiate termination of tenancy proceedings at the end of the current 12-month lease term (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, the PHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits.

#### LACDA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice of non-compliance will include a brief description of the non-compliance with the CSSR. Statement that the LACDA will not renew the Lease Agreement at the end of the 12-month lease term unless the tenant enters into a written work-out agreement with the LACDA, or the family provides written assurance that is satisfactory to the LACDA explaining that the tenant or other non-compliance resident no longer resides in the unit.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has vacated the unit before the LACDA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

A family may submit a written request for a grievance hearing, in accordance with the LACDA's Grievance Procedures (24 CFR Part 966, subpart B), and the tenant may exercise any available judicial remedy to seek timely redress for the LACDA's nonrenewal of the lease because of such determination.

If the family does not request a grievance hearing, or provide such documentation within the established due date, the family's lease will not be renewed and the LACDA will proceed with the termination of the family's housing assistance.

**EXHIBIT 11-A: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(I) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE**

**Social Security Act:**

**216(i)(1):** Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term “disability” means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

**Section 1416 (excerpt):**

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term “aged, blind, or disabled individual” means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.



## CHAPTER 12

### TRANSFER POLICY

#### INTRODUCTION

This chapter explains the PHA's transfer policy, based on HUD regulations, HUD guidance, and PHA policy decisions.

This chapter describes HUD regulations and PHA policies related to transfers in five (5) parts:

**Part I: Emergency Transfers.** This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

**Part II: LACDA Required/Initiated Transfers.** This part describes types of transfers that may be required by the LACDA, notice requirements, and payment of transfer costs.

**Part III: Resident Initiated Transfers.** This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

**Part IV: Temporary Relocation.** This part describes when temporary relocation will be required by the LACDA, notice requirements, and relocation costs.

**Part V: Transfer Processing.** This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The PHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The PHA must have specific policies in place to deal with acceptable transfer requests.

#### LACDA Policy

It is the policy of the LACDA to permit a resident to transfer within or between housing developments under certain circumstances set forth below. The LACDA Executive Director shall retain discretionary authority to approve/disapprove all transfers.

The LACDA will always consider transfer requests as a reasonable accommodation for a person with a disability.

All transfers will be made without regard to race, color, religion, sex, gender, gender identity and expression, family status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18), national origin, marital status, ancestry, age, sexual orientation, disability, medical condition, source of income, genetic information, military and veteran status, arbitrary characteristics, or any other basis prohibited by law. Residents can be transferred to accommodate a disability.

Except under certain limited circumstances, residents will receive one (1) unit offer for a transfer, whether for LACDA-initiated transfers or resident-initiated transfer requests approved by the LACDA. Refusal of an Emergency/Mandatory transfer initiated by the LACDA without good cause may result in lease termination. Refusal of an offer in response to a Resident initiated transfer request without good cause will result in the removal of the household from the transfer list.

Under certain circumstances the LACDA may require that a household transfer to another unit at the same public housing development or to another public housing development. The LACDA initiated transfers in Part II shall take priority over new admissions. The LACDA prioritizes transfers in the order delineated below:

1. Emergency Transfers (see Part I)
2. Administrative Transfers (see Part II)
3. Occupancy Standards Transfers (see Part II)
4. Other LACDA Initiated Transfers (see Part II)
5. Resident Initiated Transfers (see Part III)

## **PART I: EMERGENCY TRANSFERS**

### **12-I.A. OVERVIEW**

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the PHA.

In the case of a genuine emergency, it may be unlikely that the PHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the PHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

### **12-I.B. EMERGENCY TRANSFERS**

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

VAWA requires the PHA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

#### LACDA Policy

The following are considered emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health, or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak, no heat in the building during the winter, no water, toxic contamination, and serious water leaks.

A verified incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may be established through documentation outlined in section 16-VII.D. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP), although, the LACDA may waive this requirement in order to expedite the transfer process.

The LACDA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, stalking, or human trafficking. The LACDA will allow a tenant to make an intra-property or outside-property emergency transfer under VAWA when a safe unit becomes available. If an intra-property or outside-property transfer to a safe unit is not immediately available, the LACDA will assist the resident in seeking an external emergency transfer either within or outside the LACDA's programs.

An emergency transfer may be initiated by the LACDA after it receives input from local law enforcement. In considering whether to initiate such transfers, the

LACDA will take account of the circumstances creating the risk of violence (example Threat of Violence) and make a determination in the best interest of the resident and the LACDA. Requests for these transfers will be made to the LACDA Administrative Office with the necessary documentation to substantiate the need for such transfers.

The LACDA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

Emergency transfers (which includes VAWA) are mandatory when the LACDA determines that conditions pose an immediate threat to resident life, health, or safety. Emergency transfers may be made to permit repair of unit defects hazardous to life, health, or safety. If a unit become uninhabitable due to conditions caused by the resident, any member of the resident household, or the resident's guests, it will be addressed through the lease violation process and the resident shall not have the rights set forth above, or if the cause for the conditions is determined after the transfer, the LACDA may still terminate tenancy; alleviate verified disability problems of a life threatening nature; or to protect residents due to a reasonable fear of direct violence. Such transfers may be initiated after the LACDA receives input from local law enforcement. In considering whether to initiate such transfers, the LACDA will take into account the circumstances creating the risk of violence (example Threat of Violence) and make a determination in the best interest of the resident and the LACDA. Requests for these transfers will be made to the LACDA Administrative Office with the necessary documentation to substantiate the need for such transfers.



## 12-I.C. EMERGENCY TRANSFER PROCEDURES

### LACDA Policy

Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours.

If the transfer is necessary because of maintenance conditions, the LACDA will follow the Temporary Relocation policy (see Part IV). The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted. If a unit become uninhabitable due to conditions caused by the resident, any member of the resident household, or the resident's guests, it will be addressed through the lease violation process and the resident shall not have the rights set forth above, or if the cause for the conditions is determined after the transfer, the LACDA may still terminate tenancy.

If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the LACDA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers that arise due to maintenance conditions are mandatory for the resident.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the LACDA will follow procedures outlined in Exhibit 16-4.

On November 16, 2016, the VAWA final rule was published in the Federal Register requiring emergency transfer plans for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. 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. Transfers under VAWA are considered "Emergency Transfers" which are given first priority over other types of transfers. This plan is based on a model emergency transfer plan provided by HUD form-5381. All other transfer policies in this chapter also apply to VAWA transfers.

The LACDA 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 VAWA 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. 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.

The ability of the LACDA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether

the LACDA 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.

### ***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 their respective LACDA management office and submit a written request for a transfer. The tenant will be provided with HUD form-5383 "Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking". The LACDA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the Los Angeles County Development Authority'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***

The LACDA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the LACDA 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" HUD form-5380 for all tenants for more information about the LACDA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### ***Emergency Transfer Timing and Availability***

The LACDA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The LACDA will, however, prioritize this type of transfer and 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 to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

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

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

Pending processing of the transfer approval and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe, including but not limited to temporary housing by staying with family or friends. Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800799-7233, 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>. For referrals to local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking residents should contact their management office.

## **12-I.D. COSTS OF TRANSFER**

### **LACDA Policy**

The LACDA will only incur the reasonable moving costs of transfers initiated by the LACDA due to demolition, disposition, revitalization, rehabilitation, and/or a reasonable accommodation for a resident with a disability.

The reasonable cost of transfers includes the cost of packing, moving, storing resident's furniture or personal items, and unloading. For more information regarding Temporary Relocation Options and/or stipends, refer to PART IV.



## PART II: LACDA REQUIRED/INITIATED TRANSFERS

### 12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the PHA to develop reasonable transfer policies.

The PHA may require that a resident transfer to another unit under some circumstances. For example, the PHA may require a resident to transfer to make an accessible unit available to a disabled family. The PHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a PHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the PHA is an adverse action and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

### 12-II.B. TYPES OF LACDA REQUIRED/INITIATED TRANSFERS

#### Administrative Transfers

##### LACDA Policy

The types of Administrative Transfers that may be required by the LACDA, include, but are not limited to,

- Transfers to remove resident(s) who are victims of a violent or hate crimes or are witnesses to violent or hate crimes and may face reprisals due to their cooperation with law enforcement and or residents who are victims of extreme harassment and other emergency transfers as discussed in Part I;
- Transfers to alleviate a verified medical problem of a serious, but not life-threatening, nature (reasonable accommodation);
- Transfers to allow unit for modernization, revitalization, rehabilitation, demolition disposition, and/or to perform work/repairs that cannot be completed within 24-hours (e.g., emergency repairs, lead hazard reduction work, etc.);
- Transfers to make an accessible unit available for a disabled family that require such a unit.

Transfers required by the LACDA are mandatory for the tenant. Residents **must** return the keys to their old unit within five (5) calendar days upon the execution of the new lease/keys provided for the new unit. Should the resident not return the keys to their old unit, the sending development, in addition to billing the resident, will also notify the receiving development of the resident's outstanding balance. Failure to pay outstanding charges to the LACDA is a material breach of the Lease Agreement and the resident will be subject to termination of their tenancy.

## Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the LACDA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

### LACDA Policy

When a non-accessible unit becomes available, the LACDA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The LACDA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit. When an accessible unit becomes available, The LACDA complies with HUD mandated requirement to modify the Admissions, Occupancy and Transfer policies and procedures in order to maximize the occupancy of its accessible units by eligible individuals whose disability requires the accessibility features of a particular unit. The LACDA takes reasonable non-discriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of a particular unit by taking the following steps:

**First**, the unit will be offered to a current occupant with disabilities in the same development that requires the accessibility features of the vacant accessible unit and occupying a unit not having those accessibility features. The LACDA will pay for the moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability.

**Second**, if there is no current resident in the same development who requires the accessibility features of the vacant, accessible unit, the LACDA will offer the unit to a current resident with disabilities residing in another development that requires the accessibility features of the vacant, accessible unit and occupying a unit not having those accessibility features. The LACDA will pay for the moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability.

**Third**, if there is no current resident who requires the accessibility features of the vacant, accessible unit, then the LACDA will offer the accessible unit to an eligible, qualified applicant with disabilities on the respective waiting list who can benefit from the accessible features of the available, accessible unit.

**Lastly**, if there is not an eligible qualified resident or applicant with disabilities on the waiting list who wishes to reside in the available, accessible unit, then the LACDA will offer the available accessible unit to an applicant on the waiting list who does not need the accessible features of the unit. However, the LACDA will require the applicant to execute a lease that requires the resident to relocate, in accordance with the PH Lease.

## **Occupancy Standards Transfers**

The PHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to PHA policy [24 CFR 960.257(a)(4)]. On some occasions, the PHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

### LACDA Policy

The LACDA will transfer a family when the family size has changed, and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

*Overcrowded:* the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

*Over-housed:* the family no longer qualifies for the bedroom size in which they are living based on the LACDA's occupancy standards as described in Section 5-I.B.

The LACDA may elect not to transfer an over-housed family in order to prevent vacancies.

Transfers to correct occupancy standards may be recommended at time of re-examination or interim re-examination.

A family that is required to move because of family size will be advised by the LACDA that a transfer is recommended, and that the family has been placed on the transfer list.

When a HOH, originally housed in a bedroom by him/herself, has or adopts a child, the family will not be approved for an occupancy standard transfer, except for: Court Order, DCFS mandated requirements, adoption, court-awarded custody and/or of a minor child approved by a social service agency (i.e. DPSS, DCFS, etc.), in which case the family must inform the LACDA within ten calendar days in a legible written format.

## **Other LACDA Initiated Transfers**

### LACDA Policy

Other LACDA initiated transfers may be made to avoid concentration of the most economically and socially deprived families, or address situations that interfere with peaceful enjoyment of the premises.

In addition, the LACDA will determine whether to transfer a family to a different development, the LACDA will take into consideration the geographical distances between the current unit and the available vacant unit, which may delay requiring the family to transfer until a suitable unit within a reasonable distance or in the same development is available.

### **12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]**

A PHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the PHA may not take action on the transfer until the conclusion of the grievance process.

### **12-II.D. COST OF TRANSFER**

#### LACDA Policy

The LACDA will only incur the reasonable moving costs of transfers initiated by the LACDA due to demolition, disposition, revitalization, rehabilitation, and/or a reasonable accommodation for a resident with a disability.

The reasonable cost of transfers includes the cost of packing, moving, storing resident's furniture or personal items, and unloading. For more information regarding Temporary Relocation Options and/or stipends, refer to PART IV.



## **PART III: RESIDENT INITIATED TRANSFERS**

### **12-III.A. OVERVIEW**

HUD provides the PHA with discretion to consider transfer requests from tenants. The only requests that the PHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the PHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the PHA.

#### LACDA Policy

The types of requests for transfers that the LACDA will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, and transfers to a different unit size as long as the family qualifies for the unit according to the LACDA's occupancy standards. No other transfer requests will be considered by the LACDA.

The LACDA will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the LACDA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime (see Part I).

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

The PHA will consider the following as regular priority transfer requests:

Occupancy standards transfers will be made if the household is not in between the minimum and maximum occupancy standard's set forth by the LACDA.

## 12-III.B. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the LACDA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

### LACDA Policy

Any resident-initiated transfer shall **not** take priority over new admissions:

A resident shall have resided in their unit for a minimum of 24 months before being eligible for a transfer to another housing development. Each resident may not request more than one transfer every four years. (Exceptions to this standard will be made for medical or other emergency situations under LACDA initiated transfers).

Furthermore, the LACDA will consider approving transfer requests, other than those for health and safety reasons, by taking into account whether the resident is in good standing with the LACDA. In order for the resident to be in good standing, they have to meet the “Good Record Requirement for All Transfers” criteria.

### ***Good Record Requirement for All Transfers***

In general, and in all resident-requested transfers, residents will be considered for transfers only if the head of household and any other household members for the past 24 months:

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

Exceptions to the good record requirements may be made for emergency transfers as deemed necessary by the LACDA.

- In situations that involve a Threat of Violence (TOV), and the resident has an existing Payment Agreement with the LACDA, the transferring resident shall enter into a repayment agreement that will be an Addendum to the Lease Agreement of the new residence, entitled “Repayment Agreement Addendum to the Los Angeles County Development Authority Public Housing Lease Agreement”.

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

- If back rent is owed, the resident will not be transferred until the total amount of back rent is paid in full.
- A resident with housekeeping standards citations will not be transferred until he/she passes a follow-up housekeeping inspection.

## 12-III.C. SECURITY DEPOSITS

### LACDA Policy

#### ***Disposition of Security Deposit for A Transfer to A New Housing Development***

The LACDA will charge the family for any damages to the previous unit that exceed that unit's security deposit. If there is a balance left on the original security deposit, it will be refunded within 21-days following the move-out. The family will be charged a new security deposit and must pay the security deposit to the receiving development upon move-in. Any charges due prior to move out (i.e., delinquent maintenance charges, late rent fee, etc.) will be billed by the previous housing development to the resident. Moreover, any "Other Charges" incurred after the resident vacates the unit (i.e., maintenance charges) which exceed the security deposit will also be billed to the resident. The resident must pay "Other Charges" within 30 calendar days of receiving an invoice. "Other Charges" are reasonable charges beyond normal wear and tear for repair or damage to the residence or for unauthorized alteration to the residence or common areas caused by the resident, other household members or guests.

#### ***Disposition of Security Deposit for A Transfer Within the Same Housing Development***

If there is a balance left on the original security deposit (previous unit), it will be refunded within 21-days following move-out. Any charges due prior to move out (i.e., delinquent maintenance charges, late rent fee, etc.) will be billed to the resident. Moreover, any "Other Charges" incurred after the resident vacates the previous unit (i.e., maintenance charges) which exceed the security deposit will also be billed to the resident. The resident must pay "Other Charges" within 30 calendar days of receiving an invoice. "Other Charges" are reasonable charges beyond normal wear and tear for repair or damage to the residence or for unauthorized alteration to the residence or common areas caused by the resident, other household members or guests.

#### ***Lease Agreement Addendum for Repayment of Debts Owed to the LACDA Related to Pre-Transfer Unit***

The beneficiary of a transfer must repay any debts owed to the LACDA related to the pre-transfer unit. In order to assure that a Resident who is the beneficiary of a transfer satisfies any debts owed to the LACDA related to their pre-transfer unit, the transferring resident shall enter into a repayment agreement that will be an Addendum to the Lease Agreement of the new residence, entitled "Repayment Agreement Addendum to the Los Angeles County Development Authority Public Housing Lease Agreement". The failure of the transferring Resident to pay the debts owed to the LACDA related to their pre-transfer unit shall be a material breach of the Lease Agreement for the new residence.

In the case of LACDA initiated transfers, the inability to pay the security deposit should not delay the transfer and will be handled on a case-by-case basis.

### **12-III.D. COST OF TRANSFER**

The LACDA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2010-26].

#### LACDA Policy

Residents are responsible for all moving costs related to a Resident Initiated transfer. The LACDA will only incur the reasonable moving costs of transfers initiated by the LACDA due to demolition, disposition, revitalization, rehabilitation, and/or a reasonable accommodation transfer for a resident with a disability.

### **12-III.E. HANDLING OF REQUESTS**

#### LACDA Policy

In order to request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP) to their LACDA management office. Refer to the VAWA Emergency Transfer Plan for the handling of VAWA transfers.

If the family does not meet the "good record" requirements under Section 12-III.B., the Property Manager will address the problem and, until resolved, the request for transfer will be denied.

Resident initiated transfers, whether to another unit or development, require a Resident Request to Transfer Form (RRTF) be submitted to the site Management office. Within ten (10) calendar days, the Property Manager will review the request and determine if the resident is in good standing with the LACDA, has met the 24-month residency requirement, and has not transferred within the last four (4) years.

1. Upon determination by the Property Manager that the resident has met the transfer eligibility criteria, the RRTF will be submitted to the Operation's Manager for review and approval.
2. If the request is denied, the family will be sent a letter stating the reason for denial. The family will be informed of their grievance rights in accordance with Chapter 14.
3. Should the request be approved, the LACDA will inform the resident in writing. In addition, once a unit becomes available for the unit transfer, the LACDA will advise the resident in writing of the location to allow the resident an opportunity to view and/or accept the unit offer. A resident must accept or reject the unit offered within two (2) calendar days of the date the offer is made.
4. Should a unit not be immediately available, LACDA will notify the resident that their name has been placed on the transfer list for the location and/or bedroom size desired.
5. Requests to transfer to another unit within the same development, generally for medical reasons or to accommodate a smaller/larger family composition, will be reviewed and approved by the Property Manager. As units become vacant, the Property Manager will review the transfer list to determine if a request has been

approved for a unit of a particular bedroom size and/or accessibility features. The Property Manager will advise the Operation's Manager that the unit has been flagged for an intra-property transfer. In cases where the Property Manager denies the transfer request, the resident will be notified in writing of the decision and informed of their grievance rights in accordance with Chapter 14.

Except under certain limited circumstances, residents will receive one (1) unit offer for a transfer, whether for LACDA-initiated transfers or resident-initiated transfer requests approved by the LACDA. Refusal of an Emergency/Mandatory transfer initiated by the LACDA without good cause may result in lease termination. Refusal of an offer in response to a Resident initiated transfer request, without good cause, will result in the removal of the household from the transfer list.



## **PART IV: TEMPORARY RELOCATION POLICY**

### **12-IV.A. OVERVIEW**

Temporary relocation is defined when a resident is relocated for a period no longer than twelve (12) months because their unit will undergo a capital improvement project. In general, temporarily relocated residents must be reimbursed for their reasonable out-of-pocket expenses related to the temporary move (i.e., increased housing costs, pet lodging, and moving expenses).

In the event a resident is displaced for more than twelve (12) months, HUD requires that a residential resident be offered permanent displacement assistance.

### **12-IV.B. TYPES OF PROJECTS THAT REQUIRE TEMPORARY RELOCATION**

#### LACDA Policy

The following warrant the LACDA to temporarily relocate the resident,

- Rehabilitation, modernization, or maintenance repairs that require packing, moving, or storing residents' furniture or personal items.
- Rehabilitation, modernization, or maintenance repairs that impact the unit kitchen or bathroom where the work prevents use of these areas.
- Emergency maintenance repairs that cannot be abated within 24-hours (i.e., gas leaks, floods, large roof leaks, etc.)
- Termite and/or other infestation abatement that temporarily renders the dwelling unit uninhabitable due to multiple days of treatment.

#### **Temporary Relocation Options:**

Resident will be provided the following options when a temporary relocation is required.

- Lodge in a moderately priced hotel in the same community within 15 miles of the Housing Development or specific desired location with prior approval by the LACDA;
- Reside with a friend or family member's residence;
- An on-site comparable replacement unit; or,
- A comparable replacement unit off-site. This unit must be functionally equivalent to the unit being renovated. It should be in the same community as the Housing Development to minimize such impacts as: school transfers on the residents and their children, access to transportation networks, proximity to employment, etc.

Due to limited availability, comparable replacement units are reserved for residents who request and are approved for such units via a reasonable accommodation.

## **12-IV.C. TYPES OF PROJECTS THAT DO NOT REQUIRE TEMPORARY RELOCATION**

### LACDA Policy

The following does not warrant the LACDA to temporarily relocate the resident,

- Short-term projects to switch over to new equipment/fixtures, HVAC or A/C equipment, receptacles, or equipment, if the electrical, gas and water service to a unit is not interrupted for more than 24 hours.
- Projects where ingress and egress can be safely maintained throughout construction (i.e., window replacements, Solar Projects, Non-Emergency Roof Replacement/Repairs, etc.).

Resident can request relocation due to odors, dust, debris, noise, other hazards, or due to a reasonable accommodation. Relocation request will be determined on a case-by-case basis.

## **12-IV.D. EMERGENCY TRANSFER PROCEDURES**

### LACDA Policy

#### *Notices & Forms*

The Temporary Displacement letter and Resident Option Form must be served to residents at least 30 days prior to the date the residents will be required to temporarily vacate their unit. These forms provide the opportunity for residents to choose the temporary relocation option that best suits their household needs. The Temporary Displacement letter and Resident Option Form will be issued to residents by the site management staff. A copy of the form will be scanned and uploaded to the resident's electronic file in Laserfiche. Upon receipt of the form, the Housing Operations Analyst will secure the hotel accommodation, if necessary, and prepare the stipend for the resident. The designated site management staff shall remain the primary point of contact for the resident.

#### *Resident Community Meetings*

After the Relocation Form is issued, residents will be invited to attend a Resident Community Meeting (RCM), where they will be presented an overview of the temporary relocation process and to address any questions or concerns. Residents will be given at least seven (7) days' notice prior to the RCM meeting. The RCM meeting will be conducted by site management. During the RCM, residents are encouraged to submit all missing documents to the site management team to facilitate the relocation process. Residents that are unable to attend the RCM will be contacted by the site Management staff at least three (3) business days before the displacement period to go over the material presented during the RCM. Residents that require reasonable accommodation such as a home visit due to mobility limitations, services for sight or hearing impairments or any other special needs, should request a one-on-one appointment with site management staff.

#### *Grievance Process*

Residents who wish to grieve the provided relocation options may file a grievance. The resident must submit a grievance request as described on Chapter 14.



### ***Stipends***

Residents are required to return the Resident Option Form 14 business days prior to the planned displacement to trigger the internal process for processing stipends.

Stipends (if any) will be provided within seven (7) business days after a request.

Pet stipend is only applicable when the pet is placed in a qualified pet lodging facility. Upon submission of the verified and approved receipt, a pet stipend will be issued to the resident.

Upon release of the stipends to the residents, the Vendor Payment Receipt Acknowledgement form must be completed and signed by the resident and site management staff. After the forms are collected, the site staff will return the forms to the Housing Operations Analyst within three (3) business days.

## **12-IV.E. UNPLANNED EMERGENCY RESIDENT DISPLACEMENT**

### **LACDA Policy**

Site staff shall coordinate with the Housing Operations Analyst immediately upon discovery of an emergency. The LACDA's goal is to secure and safeguard residents, staff, and the property.

The LACDA shall coordinate, as deemed necessary, to,

Secure and pay for temporary lodging for all affected residents;

Coordinate with the Site Maintenance Supervisor to assess the damage to the unit(s);

Contact and order remediation services to minimize further damage to the property;

Provide complete disposition upon addressing the emergency situation to the management team.

The process of providing notice and conducting the RCM meeting/one-on-one appointments and obtaining the Resident Option Form upfront will be waived in all emergency situations. Residents have the right to refuse assistance or request an alternative option once the matter is stabilized; however, the LACDA shall document resident's refusal and submit to management.

The Housing Operations Analyst will follow the same protocol as stated for all accommodations and stipend requests. Due to nature of emergencies and unforeseen events, payments cannot be issued immediately. Payments will be issued to residents after they have been safely relocated.

## **12-IV.F. ADVERSE ACTION [24 CFR 966.4(E)(8)(I)]**

### **LACDA Policy**

A LACDA temporary relocation transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the LACDA may not take action on the transfer until the conclusion of the grievance process.

## **12-IV.G. COST OF TRANSFER**

### LACDA Policy

The LACDA is only responsible for the room, room related taxes, pet, and parking fees when applicable. The resident/hotel guests will be responsible for ALL incidentals, room damages, phone charges, and any other guest-ordered services, which shall include but not be limited to room services, valet parking, housekeeping, and/or laundry services.

Further, residents selecting hotel accommodation must be informed that a credit card or debit card is required when checking in. When using a debit card, funds might be held by the hotel as an authorization, and these funds will not be accessible for use. The release of these held funds are often released 5 to 10 days after being returned by the hotel.

Though most hotels accept pets at their respective establishments, hotels consider dogs and cats as pets, and other animals typically are not accepted. Any other animals will be evaluated on a case-by-case basis.

The LACDA will establish lodging or per diem stipend based on the typical costs in the community. To establish typical costs, the LACDA will collect information from rates in the community that provide these services.

The LACDA will reimburse the eligible family for eligible out-of-pocket expenses up to the LACDA's established stipends.

## **PART V: TRANSFER PROCESSING**

### **12-V.A. OVERVIEW**

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

### **12-V.B. TRANSFER LIST**

#### LACDA Policy

The LACDA maintains a transfer list at each Housing Development to ensure that transfers are processed in the priority order and that procedures are uniform across all properties.

All transfers, including emergency transfers will be placed on a transfer list. However, emergency transfers will be handled immediately in accordance with the LADCA's priority transfer policy.

Transfers will be sorted into their appropriate priority status by the Property Manager for their respective sites. Transfers will be made in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. Administrative Transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Occupancy Standards
4. Other LACDA Initiated Transfers
5. Resident Initiated Transfers

Within each category, transfer requests will be sorted by the date the completed request (including any verification needed) is received by LACDA staff.

With the approval of the LACDA Executive Director (ED), the LACDA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis. The E shall retain discretionary authority to approve/disapprove all transfers.

In the event of demolition and renovation transfers will gain the highest priority as necessary to allow the LACDA to meet the demolition or renovation schedule.

## **12-V.C. TRANSFER OFFER POLICY**

### LACDA Policy

The LACDA will make a maximum of one (1) unit offer to residents. A resident must accept or reject the unit offered within two (2) calendar days of the date the offer is made. Residents are entitled to reject transfer offers for a “good cause.”

If the LACDA has no safe and available units for which a tenant who needs an emergency is eligible, the LACDA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move.

When the transfer is required by the LACDA, the refusal of that offer without good cause may result in lease termination.

When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list.

## **12-V.D. GOOD CAUSE FOR UNIT REFUSAL**

### LACDA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

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

Unit is not of the proper size and type, and the transferred resident’s household would be able to reside there only temporarily;

An elderly family makes the decision not to occupy or accept occupancy in designated housing; (24 CFR 945.303(d));

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

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

The unit has lead-based paint and the family includes children under the age of six (6).

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

## **12-V.E. DECONCENTRATION**

### LACDA Policy

If subject to deconcentration requirements, the LACDA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the LACDA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

## **12-V.F. REEXAMINATION POLICIES FOR TRANSFERS**

### LACDA Policy

A Recertification (50058 Action Type 2 or 12) will not be conducted at the time of transfer unless the actual move in date occurs on the household annual recertification date or the Flat Rent update. The date of annual recertification will not change upon the completion of the transfer.



## CHAPTER 13

### LEASE TERMINATIONS

#### INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

The PHA may terminate tenancy for a family based on the resident's action(s) or failure to act in accordance with HUD regulations [24 CFR 966.4 (1)(2)], and the terms of the Public Housing Lease Agreement. This chapter describes the LACDA's policies for notification of lease termination and provisions of the Lease Agreement.

This chapter presents the policies that govern termination of the lease by the family and the mandatory and voluntary termination of the lease by the LACDA. It is presented in four parts:

**Part I: Termination by Resident.** This part discusses the PHA requirements for voluntary termination of the lease by the family.

**Part II: Termination by the PHA - Mandatory.** This part describes circumstances when termination of the lease by the PHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements and families that have been over the income limit for 24 consecutive months.

**Part III: Termination by the PHA – Other Authorized Reasons.** This part describes the PHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires the PHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the PHA has full discretion whether to consider the options as just cause to terminate as long as the PHA policies are reasonable, nondiscriminatory, and do not violate State or local landlord-tenant law. This part also discusses the alternatives that the PHA may consider in lieu of termination, and the criteria the PHA will use when deciding what actions to take.

**Part IV: Notification Requirements.** This part presents the Federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.





## PART I: TERMINATION BY TENANT

### 13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the written notification procedures as outlined in the Lease.

#### LACDA Policy

The resident may terminate their Lease Agreement by providing the LACDA with a **written 30-day advance notice** as defined in the Lease Agreement. The LACDA in its sole discretion, may reinstate the tenancy of a family within 120 days after move-out. The former resident(s) must have been in good standing with the LACDA. Good standing means the former resident(s) demonstrated prompt rent paying habits; maintained adequate housekeeping standards; and had a good overall record since living in public housing.

The former household must undergo criminal background check in accordance with the Suitability Criteria in Chapter 2. Once the LACDA has approved the former resident's request for re-instatement, the LACDA must conduct a full annual income review and will verify tenant provided documents in accordance with HUD's verification requirements. The LACDA will then enter into a new Lease Agreement with the returning household.



## **PART II: TERMINATION BY LACDA – MANDATORY**

### **13-II.A. OVERVIEW**

HUD requires mandatory termination of the lease for certain actions or inactions of the family.

For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the PHA to terminate the lease.

### **13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]**

The PHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

### **13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]**

The PHA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

### **13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2018-24]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

#### LACDA Policy

The LACDA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

If a member legally cannot obtain a Social Security Number, he/she must sign a certification stating that he/she does not have one. The certification shall:

- State the individual's name, state that the individual has not been issued a Social Security Number;
- State that the individual will disclose the Social Security Number to the LACDA, if he/she obtains one at a later date;
- Be signed and dated.

A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "Mixed Families". Such families will be notified that their assistance will be prorated, and they will be informed of their right for grievance in accordance with Chapter 14.

See Chapter 7 for a complete discussion of documentation and certification requirements.

### **13-II.E. FAILURE TO ACCEPT THE LACDA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]**

#### LACDA Policy

The LACDA must terminate the Lease if the family fails to accept the LACDA's offer of a lease revision to an existing Lease, provided the LACDA has done the following:

- The revision is on a form adopted by the LACDA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The LACDA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The LACDA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to LACDA policies for offering lease revisions.

### **13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]**

The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

See Part 13-III.B. below for the HUD definition of *premises*.

### **13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]**

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

### **13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]**

The PHA is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

### **13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-4]**

The PHA must immediately terminate the lease following the death of the sole family member.

### **13-II.J. OVER-INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]**

In the public housing program, an *over-income family* is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either terminate the family's tenancy within six (6) months of the LACDA's final notification of the end of the 24-month grace period.

#### LACDA Policy

For families whose income exceeds the over-income limit (over 120 percent of the Area Median Income (AMI)) for 24 consecutive months, the LACDA will terminate the tenancy of the family no more than six (6) months after the final notification of the family's over-income status in accordance with the continued occupancy policies below. The over-income policy also affects families receiving EID and families participating in the Family Self-Sufficiency (FSS) Program.

#### **Over-Income Limit [Notice PIH 2023-03]**

The PHA is required to publish over-income limits in the PHA Plan and/or update the ACOP accordingly. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

#### LACA Policy

The LACDA will rely on HUDs annual updates and will comply with the applicable notification requirements to the applicant and resident families. The income limits will be posted on the LACDA's website at <https://www.lacda.org> and copies will be displayed at each of the management offices in a conspicuous area.

#### **Decreases in Income [24 CFR 960.507(c)(4)]**

#### LACDA Policy

If, at any time during the consecutive 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with LACDA policy in Chapter 9.

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. The LACDA will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

If the LACDA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

## **Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]**

### LACDA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, the LACDA will notify the family in writing no later than 30-days of the LACDA's determination date. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the LACDA's over-income policies. The notice will state that the family may request a hearing if the family disputes the LACDA's determination in accordance with LACDA policies in Chapter 14. The LACDA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

## **Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]**

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

### LACDA Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, the LACDA will notify the family in writing no later than 30 days of the LACDA's determination date. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the LACDA's over-income policies. The notice will state that the family may request a hearing if the family disputes the LACDA's determination in accordance with LACDA policies in Chapter 14. The LACDA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

**Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27]**

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

LACDA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, the LACDA will terminate the tenancy of the family no more than six (6) months after the final notification of the family's over-income status.

If a family's income continues to exceed the applicable over-income limit after 24 consecutive months, the LACDA will notify the family in writing no later than 30 days of the LACDA's determination date. The notice will state that the LACDA will terminate the tenancy of the family no more than six (6) months after the notification of the family's over-income status. The notice will state that the family may request a hearing if the family disputes the LACDA's determination in accordance with LACDA policies in Chapter 14. The LACDA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

During the period before termination, the over-income family will continue to be a Public Housing program participant until their tenancy is terminated. The LACDA will continue to charge the family rent in accordance with Public Housing regulations, will offer the family the choice between income-based and flat rent as required by the regulations, and will prorate rent for Mixed Families.

When an over-income family is facing termination after exceeding the grace period of six (6) months, the family may request an interim reexamination, but a decrease in income and the family's rent will not reset the period before termination or enable the family to avoid termination.

The LACDA will give appropriate notice of lease tenancy termination (notice to vacate) in accordance with state and local laws.



**Net Asset Limitation for Existing Families that Exceed \$100,000 [24 CFR §§ 5.100 (real property); 5.603; and 5.618]**

LACDA Policy

The LACDA will initiate eviction of families that net assets exceed \$100,000, no later than six (6) months after the effective date of an annual or interim reexamination in accordance with HUD for the following reasons:

Net family assets that exceed \$100,000. This amount is subject to HUD's annual inflationary adjustment in accordance with the CPI; and/or

The family has a present ownership interest in, a legal right to reside in, and the legal authority to sell the real property that is suitable for occupancy by the family as a residence.

As required by HUD, the LACDA will provide the affected families the opportunity to cure the asset limitations from the effective date of the annual or interim reexamination through the end of their six (6) month end period.



## **PART III: TERMINATION BY LACDA – OTHER AUTHORIZED REASONS**

### **13-III.A. OVERVIEW**

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA to establish provisions in the Lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must adopt policies concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the Lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the Lease or for other good cause. The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA Lease. In the development of the terms of the Lease, the PHA must consider the limitations imposed by State and local landlord-tenant law, as well as HUD regulations and Federal statutes. Because of variations in State and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA also has the option to terminate the tenancies of certain over-income families.

The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA must take when terminating a family's Lease.

### **13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]**

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore PHA policies are needed.

#### **Definitions [24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

*Affiliated individual* is defined in section 16-VII.B.

*Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

*Dating violence* is defined in section 16-VII.B.

*Domestic violence* is defined in section 16-VII.B.

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

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

*Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

*Household* means the family and PHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

*Other person under the tenant's control* means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

*Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

*Sexual assault* is defined in section 16-VII.B.

*Stalking* is defined in section 16-VII.B.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### **Drug Crime on or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]**

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

#### LACDA Policy

The LACDA will terminate the lease for drug-related criminal activity engaged in on or off the premises by 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.

The illegal manufacture, sale, distribution, or use of, or possession with the intent to manufacture, sell, distribute, or use, a controlled substance constitutes a drug-related criminal activity. Residents on or off the housing development premises and having a controlled substance in his/her system are in violation of the lease. Committing of any of the above acts is a material breach of the lease and may result in termination of tenancy on three (3) days' notice.

The cultivation, manufacture, distribution, sale, use and/or possession of marijuana with the intent to cultivate, manufacture, distribute, sell, and/or use of marijuana for recreational and/or medical reasons is also a violation of the LACDA's policies relating to drug-related criminal activity and constitutes "drug-related criminal activity" under Federal law. Committing of any of the above acts is a material breach of the lease and may result in termination of tenancy on three (3) days' notice.

The LACDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the LACDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LACDA may, on a case-by-case basis, choose not to terminate the lease.

### **Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]**

The lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

#### LACDA Policy

The LACDA will terminate the lease when the LACDA determines that a household member is illegally using a drug or the LACDA 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. The LACDA will consider the use of a controlled substance or alcohol to be a "pattern" if there are three or more incidents in the previous 12-month period.

The illegal manufacture, sale, distribution, or use of, or possession with the intent to manufacture, sell, distribute, or use, a controlled substance constitutes a drug-related

criminal activity. Residents on the housing development premises and having a controlled substance in his/her system are in violation of the lease. Committing of any of the above acts is a material breach of the lease and may result in termination of tenancy on three (3) days' notice.

The cultivation, manufacture, distribution, sale, use and/or possession of marijuana with the intent to cultivate, manufacture, distribute, sell, and/or use of marijuana for recreational and/or medical reasons is also a violation of the LACDA's policies relating to drug-related criminal activity and constitutes "drug-related criminal activity" under Federal law. Committing of any of the above acts is a material breach of the lease and may result in termination of tenancy on three (3) days' notice.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous three months.

The LACDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the LACDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LACDA may, on a case-by-case basis, choose not to terminate the lease.

### **Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]**

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

#### LACDA Policy

The LACDA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including LACDA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

*Immediate vicinity* means within a three-block radius of the premises.

The LACDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the LACDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LACDA may, on a case-by-case basis, choose not to terminate the lease.

## Anti-Hate Crime

### LACDA Policy

In accordance with California Penal Code Section 422.6, the LACDA shall terminate the lease if any family member engage in a Hate Crime in violation of California Penal Code 422.6 which includes but is not limited to the use of force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in whole or in part because of that person's race or ethnicity, disability, gender, nationality, religion, sexual orientation or association with a person or group with one or more of these actual or perceived characteristics and knowingly deface, damage, or destroy the real or personal property of any other person for in whole or in part because of that person's race or ethnicity, disability, gender, nationality, religion, sexual orientation or association with a person or group with one or more of these actual or perceived characteristics.

### **Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]**

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

### LACDA Policy

The LACDA will terminate the lease if the LACDA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. The LACDA will consider the use of a controlled substance or alcohol to be a "pattern" if there are three or more incidents in the previous 12-month period.

The LACDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the LACDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LACDA may, on a case-by-case basis, choose not to terminate the lease.

**Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]**

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

LACDA Policy

The LACDA will terminate the lease if the LACDA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The LACDA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the LACDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LACDA may, on a case-by-case basis, choose not to terminate the lease.



## **Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]**

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim [24 CFR 5.2005(c)(1)].

### LACDA Policy

The Lease may be terminated at any time by the LACDA who shall give written notice for serious or repeated violation of the terms of the Lease, such as, but not limited to:

Nonpayment of rent or other charges due under the Lease, or chronic late payment of rent (3 times in a 12-month period is considered chronic);

Failure to provide timely and accurate statements of income, assets, expenses, and family composition at Admission, Interim, Special or Annual Rent Re-certifications;

Assignment or subleasing of the premises or providing accommodation for boarders or lodgers;

Use of the premises for purposes other than solely as a dwelling unit for the Resident and Resident's household as identified in this Lease, except as approved by the LACDA for a home-based occupation;

Failure to abide by reasonable rules made by the LACDA for the benefit and well-being of the housing development and the Residents;

Failure to abide by applicable building and housing codes materially affecting health or safety;

Failure to dispose of garbage waste and rubbish in a safe and sanitary manner;

Failure to use electrical, plumbing, sanitary, heating, ventilating, air conditioning and other equipment, including elevators, in a safe manner;

Acts of destruction, defacement, or removal of any part of the premises, or failure to cause guests to refrain from such acts;

Failure to pay reasonable charges (other than for normal wear and tear) for the repair of damages to the premises, development buildings, facilities, equipment, or common areas;

Sex offender lifetime registrants; or

Being subject to sex offender lifetime registration under a State sex offender registration program will be grounds for eviction.

In making its decision to terminate the lease, the LACDA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LACDA may, on a case-by-case basis, choose not to terminate the lease.

### **13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]**

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as “other good cause.”

#### **Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]**

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to only those examples. The Violence against Women Act prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as “other good cause” for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [see 24 CFR 5.2005(c)(1)].

#### LACDA Policy

The LACDA will terminate the lease for the following reasons.

*Persons subject to sex offender registration requirement.* If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery of facts after admission to the program that would have made the tenant ineligible.

Discovery of materially false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income.

Failure to furnish such information and certifications regarding family composition and income as may be necessary for the LACDA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size.

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the LACDA that such a dwelling unit is available.

Failure to permit access to the unit by the LACDA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists.

Failure to promptly inform the LACDA of the birth, adoption, or court-awarded custody of a child. In such a case, promptly means within ten (10) business days of the event.

Failure to abide by the provisions of the LACDA pet policy.

If the family has breached the terms of a repayment agreement entered into with the LACDA.

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward LACDA personnel.

*Abusive or violent behavior towards LACDA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the LACDA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the LACDA may, on a case-by-case basis, choose not to terminate the lease.

### **Family Absence from Unit [24 CFR 982.551(i)]**

It is reasonable that the family may be absent from the Public Housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

#### LACDA Policy

The family must supply any information or certification requested by the LACDA to verify that the family is living in the unit, or relating to family absence from the unit, including any LACDA-requested information or certification on the purposes of family absences. The family must cooperate with the LACDA for this purpose.

The family must promptly notify the LACDA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 30 consecutive days, and the family does not adequately verify that they are living in the unit, the LACDA will terminate the lease for other good cause.

*Abandonment of the unit.* If the family appears to have vacated the unit without giving proper notice, the LACDA will follow State and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the LACDA will secure the unit immediately to prevent vandalism and other criminal activity.

### **Absence Due to Medical Reasons**

#### LACDA Policy

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the LACDA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 120 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remains current. A resident may request a reasonable accommodation to have a longer absence approved. The LACDA has full discretion of approval and will make determinations on a case-by-case basis.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the LACDA's "Absence of Entire Family" policy.

### **Absence Due to Incarceration**

#### LACDA Policy

If the sole member is incarcerated for more than 90 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 90 consecutive days. The rent and other charges must remain current during this period.

### **Remaining Minor Member of Resident Family—Retention of Unit**

#### LACDA Policy

If neither parent remains in the household, nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the LACDA will treat that adult as a visitor for the first 90 calendar days. This will be noted as an exception to the LACDA's Visitor Policy.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Tenant Suitability criteria, the lease will be transferred to the caretaker.

If the court has not awarded custody or legal guardianship, but the action is in process, the LACDA will secure verification from social services staff or the attorney as to the status.

The LACDA will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Tenant Suitability criteria and has been in the unit for more than 90 days and it is reasonable to expect that custody will be granted.

When the LACDA approves a person to reside in the unit as caretaker for the child(ren), the income of the caretaker should be counted pending a final disposition. The LACDA will work with the appropriate service agencies to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 90 days, the person will be considered permanently absent.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household.

A minor, who was part of the household, can also qualify as a "remaining member of the resident family". A minor will be authorized to remain in the unit by establishing emancipation or by adding another adult, who has been determined eligible and suitable by the LACDA, to the Lease. The added adult will become the new head of household. When such situations arise, the LACDA will work with the minor's advocate, which may be another adult relative or DCFS caseworker, to determine the appropriate course of action and time necessary for the minor to meet one of the two criteria to remain in the unit.

## **Remaining Adult Member of Resident Family—Retention of Unit**

### LACDA Policy

Under certain circumstances, an existing member of a household has the right to remain in the unit following the death or departure of the head of household to non-subsidized housing. This section is not intended to apply to circumstances where the household is the subject of a pending eviction, lease enforcement action or where the household is not in good standing. For purposes of this section, an existing member of the household may be considered a “remaining member of the resident family” under the following circumstances:

(a) To be considered the “remaining member of the resident family”, the person must be an adult previously approved by the LACDA to be living in the unit and must have signed the lease in his or her capacity as an adult occupant. Prior to being approved as a “remaining member of the resident family”, the person must successfully undergo criminal screening and be deemed eligible and suitable under Chapter 2 of the ACOP.

A live-in aide or a caregiver, by definition, are not members of the household and will not be considered a “remaining member of the resident family”.

A reduction in family size shall require a transfer to an appropriate unit size per the Occupancy Standards.

The LACDA shall grant exceptions from the occupancy standards if the family requests and the

LACDA determines the exceptions are justified according to this policy.

The LACDA will consider the size of the unit and the size of the bedrooms, as well as the number of bedrooms, when an exception is requested (Refer to chapter on Occupancy Standards).

## **Return of Permanently Absent Family Members**

### LACDA Policy

The head of household or co-head must request in writing for the approval for the return of a former household member. Former household member(s) may be reinstated within 120 days after their move-out, if they are in good standing with the LACDA. Member is subject to Criminal Background screening and must meet suitability requirements.

Secondary Education Students - Former household members in good standing that were removed from the household while attending a secondary educational institution may be reinstated within 120 days from completion of their education program, with verification from the educational institution. Written verification from the registrar’s office will be required. Verification must include ongoing and consecutive enrollment status or an approved and/or authorized leave per the educational institution, or evidence of completion. Member is subject to Criminal Background screening and must meet suitability requirements.

## **Return of Former Households to Public Housing (Reinstatement)**

### LACDA Policy

Former household member(s) may be reinstated within 120 days after their move-out, if they are in good standing with the LACDA. Member is subject to Criminal Background screening and must meet suitability requirements.

## **Right to Reclaim Abandoned Property California Civil Code § 1984, 1985 and 1988**

### LACDA Policy

If the LACDA discovers personal property remains on the premises after a tenancy has terminated and the premises have been vacated by the tenant or the premises have been abandoned, the LACDA shall give written notice to the tenant and to any other person the LACDA reasonably believes to be the owner of the property. The notice will notify the tenant of the location where to claim the property and the date when the claim must be made. The tenant must claim the property within 15 calendar days after the notice is personally delivered or, if mailed, within 18 calendar days after the notice is deposited in the mail.

If the LACDA reasonably believes that the total resale value of the abandoned personal property is less than seven hundred dollars (\$700), the LACDA may retain the property for his or her own use or dispose of it in any manner. If the abandoned personal property is reasonably believed to be equal to or more than \$700, the LACDA will advertise a public sale of the abandoned property. The LACDA will submit a publication in a newspaper once a week for two successive weeks. The period of notice commences upon the first day of publication and terminates at the end of the fourteenth day. The publication will provide the time and place of the public sale and will describe the property to be sold in a manner reasonably adequate to permit the owner of the property to identify it.

Any balance of the proceeds of the sale, after deducting costs of storage, advertising, and sale, will be paid to the LA County Treasury no later than 30 days after the date of sale. The former tenant or other owner may claim the balance within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county.

### **13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY**

#### **Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]**

As an alternative to termination of the Lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with PHA policy.

Additionally, under the Violence against Women Act, the PHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

#### LACDA Policy

The LACDA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon LACDA request. The LACDA will consider the following as evidence that the person is no longer in the household, divorce decree, incarceration verification, death certificate, copy of a new lease for the person including the owner's telephone number and address, or other substantiating documentation.

#### **Repayment of Family Debts**

#### LACDA Policy

If a family owes amounts to the LACDA, as a condition of continued occupancy, the LACDA will require the family to repay in accordance with the Tenant Payment Agreement (TPA), or court order until the full amount is paid. owed. Refer to chapter 9 regarding Repayment Agreements for Families.

### **13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY**

A PHA has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

#### **Evidence [24 CFR 982.553(c)]**

For criminal activity, HUD permits the PHA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

##### LACDA Policy

The LACDA will use the preponderance of the evidence as the standard for making all termination decisions.

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

#### **Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]**

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the PHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

##### LACDA Policy

The LACDA will give fair consideration to the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property and/or likelihood of favorable conduct in the future.

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

Any statements made by witnesses, or the participant not included in the police report

Whether criminal charges were filed



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

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

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

### **Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]**

HUD authorizes PHAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

#### LACDA Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the LACDA will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program and is willing to continue in a supportive program approved by the LACDA.

For this purpose, the LACDA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

### **Reasonable Accommodation [24 CFR 966.7]**

If the family includes a person with disabilities, the PHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

#### LACDA Policy

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

### **Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]**

The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

### **13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

This section addresses the protections against termination of tenancy that the Violence against Women Act (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

#### **VAWA Protections against Termination [24 CFR 5.2005(c)]**

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13]

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

## **Limits on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]**

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual assault, stalking, or human trafficking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].

### LACDA Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the LACDA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking;

Whether the threat is a physical danger beyond a speculative threat;

Whether the threat is likely to happen within an immediate time frame; or,

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat. If the tenant wishes to contest the LACDA's determination that they are an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

### **Documentation of Abuse [24 CFR 5.2007]**

#### LACDA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, the LACDA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The LACDA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the LACDA will document the waiver in the individual's file.

## **Terminating or Evicting a Perpetrator of Domestic Violence**

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or remove a household member from a lease, “in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing” [FR Notice 8/6/13]. Moreover, HUD regulations impose on the PHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, stalking, or human trafficking [see 24 CFR 966.4(e)(9)].

Specific lease language affirming the PHA’s authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07]. However, perpetrators should be given no more than 30 days’ notice of termination in most cases [Notice PIH 2017-08].

### LACDA Policy

The LACDA will bifurcate a family’s lease and terminate the tenancy of a family member if the LACDA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the LACDA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the LACDA by the victim in accordance with this section and section 16-VII.D. The LACDA will also consider the factors in section 13.III.E. Upon such consideration, the LACDA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the LACDA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, the LACDA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the LACDA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered under VAWA.

### **13-III.G. TERMINATION RELATED TO NON-SMOKING POLICY**

The LACDA strictly prohibits smoking on all our properties, except for one specified designated smoking area at the South Bay Gardens Senior Public Housing Development located at 230 E. 130th Street, Los Angeles CA 90061. The term “smoking” means inhaling, exhaling, breathing, or carrying or possessing any lighted cigarette, cigar, pipe, hookah or other prohibited tobacco, marijuana, or similar lighted product in any manner or in any form. Additionally, “smoking” also includes but is not limited to the use of an electronic cigarette (e-cig or e-cigarette), a personal vaporizer (PV) or an electronic nicotine delivery system (ENDS).

#### LACDA Policy

The LACDA may terminate the Lease for a material or continuing breach of the Public Housing Non-Smoking Lease Addendum. Additionally, Residents are financially responsible for the mitigation of any damages caused by smoking in their unit or caused by smoking in non-smoking areas on the LACDA’s premises. Residents shall pay for these damages as set forth in the Lease as “Other Charges”. Costs may include but are not limited to cleaning, sealing, painting, deodorizing, duct cleaning, and possible replacement of fixtures and various surface materials.

A material or continuing breach of this Addendum shall be a material breach of the Lease and grounds for termination of the Lease by Management.

## **PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING**

### **13-IV.A. OVERVIEW**

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

### **13-IV.B. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3); Notice PIH 2021-29]**

#### **Form, Delivery, and Content of the Notice**

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR 996.4(m)].

#### LACDA Policy

If the LACDA offers remote hearings, the notice will also state that the resident may request a remote hearing.

If the LACDA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that the LACDA will provide technical assistance, if needed, before the hearing.

Furthermore, during the period of time for which HUD determines that a national emergency requires additional time for families to secure funding, all termination notifications for nonpayment of rent must include, at a minimum, the language provided in the Appendix of Notice PIH 2021-29.

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

#### LACDA Policy

The LACDA will provide the lease termination in writing and deliver it to the resident or adult member of the household or posted on the unit; and in all cases sent by first class mail addressed to the resident at the unit.

All notices of lease termination will include a copy of the forms HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, stalking, or human trafficking of which the tenant or affiliated individual of the tenant is the victim will be

given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

**Timing of the Notice [24 CFR 966.4(l)(3)(i); 24 CFR 966.8; Notice PIH 2021-29]**

The PHA must give written notice of lease termination of:

- During the period of time for which HUD determines that a national emergency requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 days from the date the tenant receives the notice in the case of failure to pay rent.
- When such emergency is not present, 14 calendar days in the case of failure to pay rent;
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days).

If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened;

If any member of the household has engaged in any drug-related criminal activity or violent criminal activity;

If any member of the household has been convicted of a felony.

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply.

LACDA Policy

The LACDA will give a written 14-day Notice to Pay Rent or Quit, or 30-day Notice to Cure or Quit to the resident for non-payment of rent.

During nationwide emergency orders, the LACDA will give a written 30- Notice to Pay Rent or Quit to the resident for non-payment of rent.

For all other lease terminations, the LACDA will give 30 calendar days written notice or, if State or local law allows less than 30 calendar days, such shorter notice will be given.

The Notice to Vacate that may be required under State or local law may be combined with or run concurrently with the notice of lease termination.

LACDA Policy

Any Notice to Vacate or Notice to Quit that is required by State or local law will **run concurrently** with the Notice of Lease Termination under this section.



## **Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]**

When the PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

### LACDA Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

## **Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the PHA's informal hearing procedures.

## **13-IV.C. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]**

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under State or local law to commence an eviction action. The PHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

### LACDA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the LACDA will follow State and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the LACDA will seek the assistance of the court to remove the family from the premises as per State and local law.

The PHA may not proceed with an eviction action if the PHA has not made available the documents to be used in the case against the family and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

### **13-IV.D. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]**

#### LACDA Policy

Following the eviction for drug-related criminal activity, the LACDA will write “No Longer at This Address” or “Return to Sender” on each piece of mail for all former residents and return to the postal carrier or local Post Office.

### **13-IV.E. RECORD KEEPING**

#### LACDA Policy

A written record of every termination and/or eviction will be maintained by the LACDA in accordance with the LACDA’s record retention policy at the development where the family was residing, including the former family’s electronic file, and will contain the following information:

Name of resident, number, and identification of unit occupied;

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently;

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905);

Date and method of notifying the resident; or

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.

## CHAPTER 14

### GRIEVANCES AND APPEALS

#### INTRODUCTION

This chapter discusses grievances and appeals pertaining to PHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

**Part I: Informal Hearings for Public Housing Applicants.** This part outlines the requirements and procedures for informal hearings for public housing applicants.

**Part II: Informal Hearings with Regard to Noncitizens.** This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and resident grievances.

**Part III: Grievance Procedures for Public Housing Residents.** This part outlines the requirements and procedures for handling grievances for public housing residents.



## **PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS**

### **14-I.A. OVERVIEW**

When the PHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes in the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the PHA policies necessary to respond to applicant appeals through the informal hearing process.

### **14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]**

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded to residents under the PHA grievance procedures [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

#### **Use of Informal Hearing Process**

While the PHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the PHA could make the informal hearing process available to applicants who wish to dispute other PHA actions that adversely affect them.

##### LACDA Policy

The LACDA will only offer informal hearings to applicants for the purpose of disputing denials of admission. The Public Housing resident's grievance procedure is not applicable to applicants, and applicants have no rights under the LACDA's resident grievance procedures.

#### **Notice of Denial [24 CFR 960.208(a)]**

The PHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the PHA decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

##### LACDA Policy

Applicants who are determined ineligible because they do not meet the LACDA's admission standards, will be mailed a written notification stating the reason for the determination and the procedure for requesting an informal hearing.

When denying eligibility for admission, the PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

### **Scheduling an Informal Hearing**

#### LACDA Policy

Applicants must submit their request for an informal hearing in writing (email permitted) to the LACDA within ten (10) calendar days from the date of the notification of their ineligibility or denial.

Except for good cause as determined by the LACDA, such as but not limited to hospitalization, illness, or injury, if an applicant requests an informal hearing, the LACDA will schedule the hearing to be held within ten (10) calendar days of receiving the request. The LACDA allows for in-person or remote informal hearings and will coordinate with the applicant regarding their preference. The LACDA will notify the applicant of the time, date, and location.

### **Conducting an Informal Hearing [PH Occ GB, p. 58]**

#### LACDA Policy

An impartial hearing officer will conduct informal hearings. The person who is designated as the hearing officer cannot be the person who made the determination of ineligibility or a subordinate of such person.

The hearing officer will consider documentation or evidence provided by the applicant and documentation provided by the LACDA. The hearing officer will make a determination based upon the merits of the evidence presented by both sides. Within ten (10) calendar days of the date of the hearing, the hearing officer will mail a written decision to the applicant and place a copy of the decision in the applicant's file.

### **Remote Informal Hearings [Notice PIH 2020-32]**

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

#### LACDA Policy

The LACDA allows for in-person or remote informal hearings.

## **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

## **Conducting Remote Informal Hearings [Notice PIH 2020-32]**

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

### LACDA Policy

The LACDA may conduct remote informal hearings via a video conferencing platform, when necessary/available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five (5) business days prior to scheduling the remote hearing, the LACDA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the LACDA of any known barriers. The LACDA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, the LACDA will require the family to provide any documents directly relevant to the informal hearing no later than 24 hours before the scheduled hearing through the mail or via email. The LACDA will scan and email copies of these documents to the LACDA representative (or the person) conducting the informal hearing the same day of receipt of the documents.

Documents will be shared electronically whenever possible through means of a secured platform (i.e., zip file, etc.). The LACDA will follow up with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The LACDA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII) and meets the requirements for accessibility for persons with disabilities and persons with LEP.



## **Informal Hearing Decision [PH Occ GB, p. 58]**

### LACDA Policy

The LACDA will notify the applicant of the LACDA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the LACDA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice.

The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in LACDA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

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

If the facts prove the grounds for denial, and the denial is discretionary, the LACDA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The LACDA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within ten (10) business days of the informal hearing, to the applicant and their representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand, and the family will be so notified.

## **Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]**

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the PHA must consider such accommodations. The PHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.



## **PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS**

### **14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

#### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a resident, the criteria, and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- Assistance to the family in a LACDA unit pursuant to a lease may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.
- Assistance to a family may not be terminated or denied while the LACDA hearing is pending but assistance to an applicant may be delayed pending the LACDA's informal hearing process.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

## **United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and proof of mailing.

### LACDA Policy

If a family member or applicant claims to be an eligible immigrant and the USCIS SAVE system and manual search do not verify the claim, the LACDA will notify the applicant or resident within ten (10) calendar days of their right to appeal to the USCIS within 30 days or to request an informal hearing for applicants/informal conference for residents with the LACDA either in lieu of or subsequent to the USCIS appeal.

If the family or applicant appeals to the USCIS, they must give the LACDA a copy of the appeal and proof of mailing or the LACDA may proceed to deny or terminate. The time period to request an appeal may be extended by the LACDA for good cause.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

### LACDA Policy

The request for a LACDA hearing must be made within 14 calendar days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within 14 days of receipt of the USCIS decision.

## **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

### **Informal Hearing Officer**

#### LACDA Policy

The LACDA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

### **Evidence**

#### LACDA Policy

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the LACDA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of LACDA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

### **Representation and Interpretive Services**

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. The PHA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

### **Recording of the Hearing**

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to, provide a transcript of the hearing.

#### LACDA Policy

The LACDA will not provide a transcript of an audio taped informal hearings.

## **Informal Hearing Decision**

The PHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

### LACDA Policy

After receipt of a request for an informal conference for Residents or an informal hearing for Applicants, the hearing is conducted as described in the “Grievance Procedures” and “Appeals by Applicants” section of this chapter for both applicants and residents. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the LACDA will deny the applicant family.

If there are eligible members in the family, the LACDA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied assistance. The family will be provided with an opportunity to remove the family member who fails to provide documentation or certification as required by the regulation.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Resident Rent and Total Resident Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

### **Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of five (5) years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

### **Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.





## **PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS**

### **14-III.A. REQUIREMENTS [24 CFR 966.52]**

PHAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any PHA action or failure to act involving the lease or PHA policies which adversely affect their rights, duties, welfare, or status. The PHA must not only meet the minimal procedural due process requirements provided under the regulations but must also meet any additional requirements imposed by local, State, or Federal law.

The PHA grievance procedure must be included in, or incorporated by reference in, the lease.

#### LACDA Policy

The LACDA grievance procedure will be incorporated by reference in the resident lease.

The PHA must provide at least 30 days' notice to residents and resident organizations setting forth proposed changes in the PHA grievance procedure and provide an opportunity to present written comments. Comments submitted must be considered by the PHA before adoption of any changes to the grievance procedure by the PHA.

#### LACDA Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by the LACDA of any proposed changes in the LACDA grievance procedure, to submit written comments to the LACDA.

The PHA must furnish a copy of the grievance procedure to each resident.

#### 14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a resident may have with respect to PHA action or failure to act in accordance with the individual resident’s lease or PHA regulations which adversely affect the individual resident’s rights, duties, welfare, or status. Grievance does not include disputes between residents not involving the LACDA; class grievances such as rent strikes; a forum for initiating or renegotiating policy changes between groups of residents and the LACDA Board of Commissioners; not to an eviction based upon violent criminal activity or drug related criminal activity.
- **Complainant** – any resident whose grievance is presented to the LACDA or at the site/management office.
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.
- **Elements of Due Process** – an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:
  - Adequate notice to the resident of the grounds for terminating the tenancy and for eviction
  - Right of the resident to be represented by counsel
  - Opportunity for the resident to refute the evidence presented by the LACDA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have
  - A decision on the merits
- **Hearing Officer** – an impartial person or selected by the LACDA, other than the person who made or approved the decision under review, or a subordinate of that person.
- **Resident** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with the LACDA as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation
- **VAWA** – An incident or incidents of 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 will not be good cause for terminating the tenancy rights of the victim of such violence. Criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking, engaged in by a member of a resident’s household or any guest or other person under the resident’s control, shall not be cause for termination of the tenancy, if the resident, or affiliated individual of the resident is a victim of that domestic violence, dating violence, sexual assault or stalking.

### **14-III.C. APPLICABILITY [24 CFR 966.51]**

Grievances could potentially address most aspects of a PHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual resident issues relating to the PHA. It is not applicable to disputes between residents not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

See Chapter 13 for related policies on the content of termination notices.

### **14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]**

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the PHA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

#### LACDA Policy

Any grievance may be presented in writing through a "Grievance Request Form" or email and submitted to the LACDA office or to the housing management office who sent the notice on which the grievance is based. Written grievances must be signed by the resident. The grievance must be requested within ten (10) calendar days after receipt of the notice of any adverse action on which the grievance is based. It may be simply stated, but shall specify:

- The particular grounds upon which it is based,
- The action requested; and
- The name, address, and telephone number of the complainant, and similar information about the complainant's representative, if any.

The LACDA will provide reasonable accommodation for persons with disabilities to participate in the informal conference. The LACDA must be notified within three (3) calendar days of the scheduled time if special accommodations are required.

However, the LACDA will afford the family an Informal Conference to discuss the nature and circumstances of the grievance and to determine if the parties can resolve the grievance without the necessity of a formal hearing. A formal hearing is only for current residents.

Except for good cause as determined by the LACDA such as, but not limited to hospitalization, illness, or injury, a designated LACDA representative shall hold an informal conference with the resident within ten (10) calendar days of receipt of the grievance. At the informal conference, the resident will present their grievance and the LACDA representative will discuss and attempt to settle the grievance.

If the complainant fails to appear within 30 minutes of the scheduled time, the LACDA representative may cancel the informal conference and determine that the complainant has waived their grievance rights.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the resident and one retained in the PHA's resident file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons, therefore, will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

#### LACDA Policy

When the informal conference is completed, the LACDA representative will provide the resident with a written summary of the informal conference. The summary of the informal conference shall be prepared within a reasonable time and one copy shall be given to the resident and one retained in the LACDA's resident file. The summary will specify the date of the informal conference, names of participants, nature of the disposition of the complaint and supporting reasons, as well as specifying the procedures by which a formal hearing may be obtained if the grievance has not been resolved at this level. A receipt signed by the resident or a return receipt for delivery of certified mail, whether or not signed, will be sufficient proof of time of delivery for the summary of the informal conference.

## 14-III.E. PROCEDURES TO OBTAIN A HEARING

### Requests for Hearing and Failure to Request

#### LACDA Policy

After exhausting the informal conference procedures outlined above, a complainant shall be entitled to a formal hearing before a hearing officer.

If the resident, also known as the complainant, is dissatisfied with the results of the informal conference, s/he shall submit a “Grievance Request Form” requesting a formal hearing within ten (10) calendar days of the date of service of the informal conference summary. The request must specify the reason for the grievance request and the relief sought.

If the complainant does not request a formal hearing within ten (10) calendar days of the date of service of the informal conference summary, s/he waives his/her rights to a hearing, and the LACDA’s disposition of the grievance under the informal conference process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the LACDA’s action in disposing of the complaint in an appropriate judicial proceeding.

### Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official.

#### LACDA Policy

#### *Informal Conference Prerequisite*

All grievances must be presented pursuant to the informal conference procedure as a prerequisite to a formal hearing. The hearing officer may waive the prerequisite informal conference if, and only if, the complainant can show good cause why s/he failed to proceed informally.

#### *Scheduling*

Within ten (10) business days of receiving a written request for a hearing, the designated LACDA representative will coordinate with the third- party hearing officer (if applicable) to schedule the hearing, provide a copy of the grievance/complaint form, copy of the informal conference summary (if applicable), and a copy of the formal hearing request. then will send written notice of the hearing to both the complainant and the LACDA’s third-party hearing-officer.

The PHA may wish to permit the resident to request to reschedule a hearing for good cause.

LACDA Policy

The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least three (3) days prior to the hearing date. At its discretion, the LACDA may request documentation of the “good cause” prior to rescheduling the hearing.

Should the complainant require a continuance of the hearing, the complainant shall submit a written request to the LACDA within three (3) business days of the scheduled time of the hearing. The complainant’s written request must provide a reason for the continuance.

A written notification of the date, time, place, and procedures governing the hearing shall be delivered to the complainant and the appropriate LACDA official.

The LACDA will provide reasonable accommodation for persons with disabilities to participate in the hearing. The LACDA must be notified within three days of the scheduled time if special accommodations are required.

**14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]**

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person. The PHA must describe their policies for selection of a hearing officer in their lease.

LACDA Policy

A grievance hearing shall be conducted by an impartial person appointed by the LACDA other than the person who made or approved the LACDA action under review, or a subordinate of such person.

Hearing Officer shall be appointed by the LACDA through an approved list of hearing officers or through an organization approved by the Executive Director of the LACDA.

Each party may challenge the hearing officer for good cause and must file an objection stating reason prior to start of hearing.

PHAs must describe their policies for selection of a hearing officer in their lease forms. Changes to the public housing lease are subject to a 30-day comment period [24 CFR 966.4].

## **14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]**

### **Rights of Complainant [24 CFR 966.56(b)]**

The complainant will be afforded a fair hearing and be provided the basic safeguards of due process. This includes:

- The opportunity to examine before the grievance hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The resident must be allowed to copy any such document at the resident's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

#### LACDA Policy

The complainant shall be afforded a fair hearing and be provided the basic safeguards of due process to include:

The opportunity to examine and to copy before the hearing, at the expense of the complainant (\$.25 per copy), all documents, records, and regulations of the LACDA that are relevant to the hearing with at least a 24-hour notice prior to the hearing. Any document not so made available after request by the complainant may not be relied upon by the LACDA at the hearing.

The LACDA shall also have the opportunity to examine and to copy at the expense of the LACDA all documents, records, and statements that the resident plans to submit during the hearing to refute the LACDA's inaction or proposed action. Any documents not so made available to the LACDA may not be relied upon at the hearing.

The right to a private hearing unless otherwise requested by the complainant.

The right to be represented by counsel or other person chosen as a representative at the family's expense.

The right to present evidence and arguments in support of the complaint, to controvert evidence presented by the LACDA, and to confront and cross-examine all witnesses upon whose testimony or information the LACDA relies, limited to the issues for which the complainant has received the opportunity for a formal hearing; and

The right to a decision based solely and exclusively upon the facts presented at the hearing.

## **Attendance**

### LACDA Policy

Hearings may be attended by the following applicable persons:

- The LACDA representatives and any witnesses for the LACDA
- The resident and any witnesses for the resident
- The resident's counsel or other representative
- Any other person approved by the LACDA as a reasonable accommodation for a person with a disability
- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the resident's complaint, to controvert evidence presented by the LACDA, and to confront and cross-examine all witnesses upon whose testimony or information the LACDA relies, limited to the issues for which the complainant has received the opportunity for a formal hearing.
- The right to a decision based solely and exclusively upon the facts presented at the hearing.

### **Failure to Appear [24 CFR 966.56(c)]**

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than five business days or may make a determination that the party has waived their right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer: Provided that a determination that the complainant has waived their right to a hearing will not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

### LACDA Policy

If the complainant fails to appear within thirty (30) minutes of the scheduled time, the hearing officer may determine that the complainant has waived their right to a hearing. Such a determination in no way waives the complainant's right to appropriate judicial proceedings in another forum.



## General Procedures [24 CFR 966.56(d), (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer. The PHA and the resident must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

### LACDA Policy

The hearing shall be conducted by the hearing officer as follows:

Oral and documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The hearing officer shall require the LACDA, complainant, counsel, and other participants and spectators to conduct themselves in an orderly manner. The failure to comply with the directions of the hearing officer to maintain order will result in the exclusion from the proceedings, or a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- **Oral evidence:** the testimony of witnesses
- **Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the LACDA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If the LACDA fails to comply with the discovery requirements (providing the resident with the opportunity to examine LACDA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the LACDA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(e)].

#### LACDA Policy

Either party may request a tape recording of the hearing. The LACDA shall provide equipment and an operator for the purpose of recording the hearing. The complainant may secure a duplicate at his/her expense.

Additionally, the hearing shall be conducted by the hearing officer as follows:

Oral and documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The hearing officer shall require the LACDA, complainant, counsel, and other participants and spectators to conduct themselves in an orderly manner. The failure to comply with the directions of the hearing officer to maintain order will result in the exclusion from the proceedings, or a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

#### **Accommodations of Persons with Disabilities [24 CFR 966.56(f)]**

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident is visually impaired, any notice to the resident which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the PHA's responsibilities pertaining to reasonable accommodation.

#### **Limited English Proficiency (24 CFR 966.56(g))**

The PHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

#### 14-III.H. DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and the PHA. The PHA must retain a copy of the decision in the resident's folder. A log of all hearing officer decisions must also be maintained by the PHA and made available for inspection by a prospective complainant, their representative, or the hearing officer [24 CFR 966.57(a)].

##### LACDA Policy

In rendering a decision, the hearing officer will consider the following matters:

- ***LACDA Notice to the Family***: The hearing officer will determine if the reasons for the LACDA's decision are factually stated in the notice.
- ***Discovery***: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with LACDA policy.
- ***LACDA Evidence to Support the LACDA Decision***: The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the facts to determine if they support the LACDA's conclusion.
- ***Validity of Grounds for Termination of Tenancy (when applicable)***: The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and LACDA policies. If the grounds for termination are not specified in the regulations or in compliance with LACDA policies, then the decision of the LACDA will be overturned.

The hearing officer shall mail to the LACDA and the complainant/or his or her representative a written decision, including the reasons for the decision, within ten (10) calendar days following the hearing. The LACDA will place one copy in the resident files (paper and or electronic file). The written decision will be sent to the address provided at the hearing. The LACDA shall maintain a log of hearing officer decisions and make it available upon request. The report will contain the following information:

##### ***Hearing information:***

Name of the complainant

Date, time, and place of the hearing

Name of the hearing officer

Name of the LACDA representatives

Name of family representative (if any)

Names of witnesses (if any)

***Background***: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the LACDA's decision.

**Order:** The hearing report will include a statement of whether the LACDA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the LACDA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the LACDA to restore the family's status.

## **Procedures for Further Hearing**

### LACDA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment (30 minutes of the scheduled time), minor deadline ordered by the hearing officer, the action of the LACDA will take effect and another hearing will not be granted.

### **Final Decision [24 CFR 966.57(b)]**

The decision of the hearing officer is binding on the PHA which must take the action, or refrain from taking the action cited in the decision unless the PHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer is contrary to Federal, State, or local law, HUD regulations or requirements of the Annual Contributions contract between HUD and the PHA

#### LACDA Policy

If the hearing officer determines that the issue has been previously decided in another proceeding, a decision may be rendered without proceeding with the hearing.

Any grievance in which the Resident claims a right under VAWA, a hearing officer will not issue a decision and instead will postpone the hearing until such time as a decision on the VAWA request has been made in compliance with all VAWA references made in this ACOP.

#### ***LACDA Eviction Actions***

A notice of termination is suspended pending the grievance process. As the notice of termination tolls, rent shall continue to be due and owing during and pending the grievance hearing procedures. The failure to pay rent pending the grievance process will result in a waiver of the grievance. If a resident has requested a hearing in accordance with these duly adopted Grievance Procedures on a complaint involving a LACDA notice of termination of tenancy, and the hearing officer upholds the LACDA action, the LACDA shall not commence an eviction action until the notice of termination of tenancy expires.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].



## CHAPTER 15

### PROGRAM INTEGRITY

#### INTRODUCTION

The PHA is committed to ensuring that funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Fraud and abuse by a resident or applicant, therefore, may constitute an *intentional* misrepresentation of income, assets, and allowances, or intentional misrepresentation of family composition or initiating and participating in bribes or other illegal activities.

Intentional may mean a claim that a resident or applicant *knows or has reason to know* is false, fictitious, or fraudulent.

Knows or has reason to know may mean a person acts in deliberate ignorance of the truth or acts in reckless disregard of the truth or falsity of the claim or statement.

**Part I: Preventing, Detecting, and Investigating Errors and Program Abuse.** This part presents LACDA policies related to preventing, detecting, and investigating errors and program abuse.

**Part II: Corrective Measures and Penalties.** This part describes the corrective measures the LACDA must and may take when errors or program abuses are found.





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

### **15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and residents with form HUD-52675, “Debts Owed to PHAs and Terminations.”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.
- All adult applicants/residents must sign the HUD-9886-A to consent to allow the LACDA to verify applicant/resident provided information.

#### LACDA Policy

The LACDA anticipates that the vast majority of families and LACDA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the LACDA’s program is administered effectively and according to the highest ethical and legal standards, the LACDA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

Management and program staff will utilize various methods and practices (listed below) to help prevent program abuse, noncompliance, and willful violations of program rules by applicants and residents. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by residents.

Things You Should Know (HUD-1140-OIG): The LACDA will provide each applicant and resident form HUD-1141-OIG; and will promote the understanding of program rules and clarify the LACDA’s expectation for cooperation and compliance. Additionally, applicant and residents will be explained the types of actions a family must avoid and the penalties for program abuse.

What You Should Know about EIV: The LACDA will provide each applicant and resident with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the LACDA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

Program Orientation Session: The LACDA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the Lease. The LACDA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be

required to sign HUD-1140-OIG form to confirm that all rules and pertinent regulations were explained to them regarding fraud and abuse.

Resident Counseling: The LACDA will routinely provide resident counseling in order to clarify any confusion pertaining to program rules and requirements.

Review and Explanation of Forms: LACDA staff will be required to review and explain the contents of all HUD- and LACDA-required forms prior to requesting family member signatures. At every regular reexamination the LACDA staff will explain any changes in HUD regulations or LACDA policy that affect residents.

Use of Instructive Signs and Warnings: Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse. Additionally, the LACDA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key LACDA forms and form letters that request information from a family member.

Staff Training: The LACDA will provide each LACDA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive, or mislead.

### LACDA Policy

#### Criteria for Investigation of Suspected Abuse and Fraud

The LACDA does not intend to undertake an inquiry or an audit of a resident family arbitrarily. The LACDA's expectation is that resident families will comply with HUD requirements, provisions of the lease, and other program rules. The LACDA staff will make an effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the LACDA has a responsibility to HUD, to the community, and to eligible families in need of housing assistance, to monitor residents' lease obligations for compliance, and when indicators of possible abuse come to the LACDA's attention, to investigate such claims.

The LACDA may initiate an investigation of a resident family in the event of one or more of the following circumstances:

Referrals, Complaints, or Tips: Referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a household is in noncompliance with, or otherwise violating the lease or the program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. Document of the allegation and supporting documents will be retained in the resident file.

## **15-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

### **Quality Control and Analysis of Data**

#### LACDA Policy

The LACDA will employ a variety of methods to detect errors and program abuse, including:

The LACDA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number, LEADER System, and any other private or public databases available to the LACDA.

EIV inquiries will be made in the following circumstances:

Annual/Interim Re-certifications.

Post Move-in (New Admissions) within 60-days of the move-in date.

When an allegation is received by the LACDA wherein unreported income sources are disclosed.

When a resident's expenditures exceed his/her reported income, and no plausible explanation is given.

At each annual/interim reexamination, current information provided by the family will be compared to information provided at the last annual/interim reexamination to identify inconsistencies and incomplete information, unless stated otherwise under HOTMA discretionary policies adopted by the LACDA.

The LACDA will compare family-reported income and expenditures to detect possible unreported income.

Credit Bureau inquiries may be made in the following circumstances:

Application Process.

Annual/Interim Re-certifications.

When an allegation is received by the LACDA wherein unreported income sources are disclosed.

When a resident's expenditures exceed his/her reported income, and no plausible explanation is given.

Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

Management and Program Staff (including maintenance personnel and policing authorities) will be trained to maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income and assets, including personnel and real property.

**Quality Control File Reviews:** Eligible applicant files prior to a unit offer will be randomly selected for quality control review by the site Property Manager including **all** new admission certifications. Subsequent re-certifications will be randomly selected by the Program Support Unit and assigned to the Property Managers for quality control review. Such reviews may include, but are not limited to:

Changes in reported Social Security Numbers or dates of birth.

Authenticity of file documents.

Ratio between reported income and expenditures.

Review of signatures for consistency with previously signed file documents.

Assurance that verification of all income and deduction is present and thoroughly documented as per HUD's mandated verification procedures.

Review of the household's EIV Income Report and IVT Report.

Accurate 50058 Family Report reporting to HUD.

Review of the household's Credit Bureau Report.

Verification of Citizenship Status and supporting documents.

Review of required signatures for all HUD mandated forms and Public Housing Lease and Addendums.

Community Service Requirements/Self Certifications

Review of the adult household member's criminal background requirements prior to admission.

Ensure Tenant Payment Agreements are established accordingly.

### **Independent Audits and HUD Monitoring**

Notice PIH 2015-16 requires all PHAs that expend \$750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

#### LACDA Policy

The LACDA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the LACDA's error detection and abuse prevention efforts.

### **Individual Reporting of Possible Errors and Program Abuse**

#### LACDA Policy

The LACDA will encourage staff, residents, and the public to report suspected program abuse to the Property Manager and/or LACDA staff.

## 15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

### When the LACDA Will Investigate

#### LACDA Policy

The LACDA will carefully evaluate all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. The LACDA will not follow up on allegations which are vague or otherwise nonspecific. In order for the LACDA to investigate, the allegation must contain at least one independently verifiable fact, such as the name of an employer or the name of an unauthorized household member.

The LACDA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process. An internal file review will be conducted by the site Property Management office to determine:

If the subject of the allegation is a current Public Housing resident, and if so, the LACDA will verify and determine whether the information reported has been previously disclosed by the family.

It will then be determined if the LACDA is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

If at the conclusion of the preliminary file review, there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the site management staff will initiate an investigation to determine if the allegation is true or false.

### Consent to Release of Information [24 CFR 960.259]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require families to sign consent forms for the release of additional information.

### Analysis and Findings

#### LACDA Policy

The LACDA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

If the site management determines that an allegation or referral warrants further investigation, the site management staff will conduct the review. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the LACDA will ensure, where required, that a written authorization from the program participant for the release of information has been obtained.

EIV Report Review: The LACDA staff will obtain a current EIV report on the household that may have under/unreported their annual income.

Credit Bureau Inquiries (CBIs): In cases involving previously under/unreported income sources, a CBI inquiry may be made to determine if there is financial activity which conflicts with the household's reported income.

IRS: Request for IRS Returns or W-2's may be required.

Verification of Credit: In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.

Employers and Former Employers: Employers or former employers may be contacted to verify wages, which may have been previously undisclosed or misreported.

Neighbors/Witnesses: Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the LACDA's review.

Field Investigation: Field Investigators may be utilized to gather additional information as determined by the LACDA.

Other Agencies: Investigators, caseworkers, or representatives of other benefit agencies may be contacted.

Public Records: If relevant, the LACDA will review public records kept in any jurisdictional courthouse or county recorder's office. Examples of public records which may be checked are real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records, school records, and postal records.

Consult Designated Fraud Analyst: The site management staff may schedule a consultation meeting to discuss the preliminary findings and seek further guidance.

Interviews with Head of Household or Family Members: The LACDA will discuss the allegation (or details thereof) with the head of household or family member by scheduling an appointment at the site office with the Property Manager. In certain circumstances, the Fraud Analyst may assist during the interview. The LACDA intends to conduct such interviews with a high standard of courtesy and professionalism, avoiding inflammatory language, accusations, or unprofessional conduct or language. If necessary, an additional staff person may attend such interviews.

Documents and other evidence obtained by the LACDA during the course of an investigation will be considered "work product" and will be stored in the resident's file upon completion of the investigation. Such cases under review will not be discussed among the LACDA staff unless they are involved in the process, or have information, which may assist in the investigation.

At the conclusion of the fraud review, the findings will be reported to the Property Manager and/or Operations Manager(s). It will then be determined whether a violation has or has

not occurred, or if the facts are inconclusive. In any event, the LACDA staff and/or Fraud Analyst will document the resident file of his/her fraud investigation by providing a memorandum including proposed course of action (i.e., enter into a repayment agreement, counseling, or seek termination of housing assistance).

For each investigation the LACDA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the LACDA, and (3) what corrective measures or penalties will be assessed.

When the LACDA has established that material misrepresentation(s) have occurred, a Resident Conference may be scheduled with the family which may include a representative, the Property Manager and/or the staff person most knowledgeable about the circumstances of the case. In the event that a conference is scheduled, an appointment letter confirming the Resident Conference date may include a checklist of documents and/or information for the resident to bring to the mandatory meeting.

The purpose of such conference is to review the information and evidence obtained with the resident and to provide the resident an opportunity to explain any document findings which conflict with representations in the resident file. Any documents or mitigating circumstances presented by the resident will be taken into consideration by the LACDA. The resident will be given ten (10) calendar days commencing from the conclusion of the Resident Conference to furnish any mitigating evidence.

A secondary purpose of the Resident Conference is to assist the LACDA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the following will be considered:

The duration of the violation and number of false statements.

The resident's ability to understand the rules.

The resident's willingness to cooperate and accept responsibility for his/her actions.

The amount of underreported income (i.e., money due to the LACDA).

The resident's past history.

### **Consideration of Remedies**

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

#### LACDA Policy

In the case of family-caused errors or program abuse, the LACDA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

The LACDA staff and/or Fraud Analyst will document the resident file of his/her fraud investigation by providing a memorandum including proposed course of action (i.e., enter into a repayment agreement, counseling, or seek termination of housing assistance).

If it is determined that a program violation has occurred, the Property Manager will review the facts to determine:

- The type of violation (noncompliance, fraud).
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the resident.
- If the household is eligible for continued occupancy.

Once a program violation has been documented, the Property Manager will propose the most appropriate remedy based upon the type and severity of the violation.

## **Notice and Appeals**

### LACDA Policy

The LACDA will inform the relevant party in writing of its findings and remedies within ten (10) business days of the conclusion of the investigation.

A Notification of Underpaid Rent will be issued and must contain the following:

- A description of the violation and the date(s).
- Any amounts owed to the LACDA.
- A ten (10) calendar day written response period.

The right to disagree and to request an informal conference with instructions for the request of such conference in compliance with the grievance policy established in the ACOP.

If the resident fails to comply with the notice, and a material provision of the lease has been violated, termination of tenancy may be initiated.

If the resident complies with the notice, the Property Manager responsible will meet with him/her to discuss and explain the obligation or lease provision which was violated. The Property Manager will complete a counseling report, give one copy to the family, and retain a copy in the resident file.



## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **15-II.A. UNDER- OR OVERPAYMENT**

An under- or overpayment includes an incorrect resident rent payment by the family, or an incorrect utility reimbursement to a family.

#### **Corrections**

Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the resident rent and any utility reimbursement prospectively.

##### LACDA Policy

Increases in the resident rent will be implemented on the first of the month following a written 30- day notice.

Any decreases in resident rent will become effective the first of the month following the discovery of the error.

#### **Reimbursement**

Whether the family is required to reimburse the PHA or the PHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

### **15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

#### **Family Reimbursement to LACDA**

##### LACDA Policy

In the case of family-caused errors or program abuse, including but not limited to failure to report income and asset changes in a timely manner, the family will be required to repay any amounts of rent underpaid. The LACDA may, but is not required to, offer the family a repayment agreement in accordance with LACDA's Tenant Repayment Agreement policy. If the family fails to repay the amount owed, the LACDA will terminate the family's lease in accordance with the policies in Chapter 13.

#### **LACDA Reimbursement to Family**

##### LACDA Policy

The LACDA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

## **Prohibited Actions**

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the PHA [24 CFR 960.259(a)(4)].
- Commit fraud or make false statements in connection with an application for assistance, or with reexamination of income [24 CFR 966.4(1)(2)(iii)(C)].

### LACDA Policy

Any of the following will be considered evidence or willful intent of the family to conduct program abuse:

Offering bribes or illegal gratuities to the LACDA Board of Commissioners, employees, contractors, or other LACDA representatives.

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the LACDA on the family's behalf.

Use of a false name or the use of falsified, forged, or altered documents (e.g., providing false name or Social Security Number).

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition).

Omitted facts that were obviously known by a family member (e.g., not reporting employment income).

Admission of program abuse by an adult family member.

An act done repeatedly.

That the resident uttered and certified to statements at a rent (re)determination which were later independently verified to be false.

The LACDA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

## **Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to PHA).
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The PHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The PHA may refer the family for State or Federal criminal prosecution as described in section 15-II.D.

In all cases of misrepresentations involving efforts to recover monies owed, the LACDA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

- The LACDA may pursue Civil remedies by (1) terminating tenancy and demand payment of restitution in full; (2) terminating assistance and execute an administrative repayment agreement in accordance with the LACDA's Repayment Policy; (3) terminating assistance and/or pursue restitution through civil litigation; (4) terminating assistance and seek recovery through tax refunds and/or garnishment of wages or other forms of collection; (5) continue assistance and issue the resident a Notice of Rent Adjustment with the correct resident rent payment amount, and demand restitution due 30-Days from the date of the notice; or (6) permit continued assistance with the correct resident rent amount and execute an Administrative Repayment Agreement in accordance with the LACDA's Repayment Policy.
- The LACDA may refer the case to other enforcement agencies if it believes the case meets the criteria established by the LACDA for prosecution.
- The LACDA may terminate a public housing tenancy for a material breach of the lease for discovery of materially false statements or fraud, including but not limited to misrepresentation of facts, omitted pertinent information, or failure to inform Management of information it requires for an annual recertification or interim adjustments, by the resident or family member in connection with an application for assistance, with re-certification, or reexamination of income.

## **15-II.C. LACDA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

### **De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]**

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

#### LACDA Policy

The LACDA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error. The overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

## **Prohibited Activities**

### LACDA Policy

Any of the following will be considered evidence of program abuse by LACDA staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict-of-interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the LACDA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of LACDA activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the LACDA knew or should have known such harassment was occurring

Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

#### **15-II.D. CRIMINAL PROSECUTION**

When the PHA determines that program abuse by a family for the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the PHA may refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case must be referred to the HUD Office of Inspector General (OIG). Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

#### **15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES**

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the PHA recovers [Notice PIH 2007-27 (HA)].

If the PHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the PHA's grievance process.

## **GLOSSARY**

### **ACRONYMS USED IN PUBLIC HOUSING**

<b>ACC</b>	Annual contributions contract
<b>ACOP</b>	Admissions and continued occupancy policy
<b>ADA</b>	Americans with Disabilities Act of 1990
<b>AIDS</b>	Acquired immune deficiency syndrome
<b>AMI</b>	Area median income
<b>AMP</b>	Asset management project
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant (Program)
<b>CFP</b>	Capital fund program
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>COCC</b>	Central office cost center
<b>CPI</b>	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
<b>EIV</b>	Enterprise Income Verification
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration (HUD Office of Housing)
<b>FHEO</b>	Fair Housing and Equal Opportunity (HUD Office of)
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security taxes)
<b>FMR</b>	Fair market rent
<b>FR</b>	Federal Register
<b>FSS</b>	Family Self-Sufficiency (Program)
<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>HA</b>	Housing authority or housing agency
<b>HCV</b>	Housing choice voucher
<b>HIP</b>	Housing Information Portal
<b>HOPE VI</b>	Revitalization of Severely Distressed Public Housing Program
<b>HOTMA</b>	Housing Opportunity through Modernization Act of 2016

<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System
<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual retirement account
<b>IRS</b>	Internal Revenue Service
<b>IVT</b>	Income Validation Tool
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint
<b>LEP</b>	Limited English proficiency
<b>LIHTC</b>	Low-income housing tax credit
<b>MTW</b>	Moving to Work
<b>NOFA</b>	Notice of funding availability
<b>NSPIRE</b>	National Standards for the Physical Inspection of Real Estate
<b>OGC</b>	HUD's Office of General Counsel
<b>OIG</b>	HUD's Office of Inspector General
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan to Achieve Self-Support
<b>PHA</b>	Public housing agency
<b>PHAS</b>	Public Housing Assessment System
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>QC</b>	Quality control
<b>QHWRA</b>	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
<b>RAD</b>	Rental Assistance Demonstration Program
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>ROSS</b>	Resident Opportunity and Supportive Services
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>SWICA</b>	State wage information collection agency
<b>TANF</b>	Temporary assistance for needy families



<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>UFAS</b>	Uniform Federal Accessibility Standards
<b>UIV</b>	Upfront income verification
<b>URP</b>	Utility reimbursement payment
<b>VAWA</b>	Violence Against Women Act
<b>VCA</b>	Voluntary Compliance Agreement



## **GLOSSARY OF PUBLIC HOUSING TERMS**

***Accessible.*** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

***Adjusted income.*** Annual income (as determined under 24 CFR 5.609), of the members of the family residing or intending to reside in the dwelling unit less allowable HUD deductions and allowances.

***Affiliated individual.*** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

***Alternative non-public housing rent.*** A monthly rent equal to the greater of:

- The applicable fair market rent, as defined in 24 CFR part 888, subpart A, for the unit; or
- The amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.

***Annual contributions contract (ACC).*** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

***Applicant (applicant family).*** A family that has applied for admission to a program but is not yet a participant in the program.

***As-paid states.*** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

***Assets.*** (See *net family assets.*)

***Auxiliary aids.*** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

***Bifurcate.*** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

***Ceiling rent.*** The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

***Child.*** A member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen.** A citizen or national of the United States.

**Cohead.** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance 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 the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Day laborer.** An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

**Dependent.** A member of the family (which excludes 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.

**Dependent child.** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

**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.

**Disabled family.** A family whose head, cohead, 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.

**Disabled person.** See *person with disabilities*.

**Disallowance.** Exclusion from annual income.

**Displaced family.** A family in which each member, or whose sole member, is 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.

**Domestic violence.** Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

**Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**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.

**Earned income.** Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, Social Security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

**Economic abuse.** Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

**Economic self-sufficiency program.** Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

**Effective date.** The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

**Elderly family.** A family whose head, cohead, 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.

**Elderly person.** An individual who is at least 62 years of age.

**Eligible family (Family).** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

**Employer identification number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

**Extremely low-income family.** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

**Fair Housing Act.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

**Family.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A single person, who may be:
  - o An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
  - o An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or
- A group of persons residing together, and such group includes, but is not limited to:
  - o 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);
  - o An elderly family;
  - o A near-elderly family;
  - o A disabled family;
  - o A displaced family; and
  - o The remaining member of a tenant family.

**Family self-sufficiency program (FSS program).** The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

**Federal agency.** A department of the executive branch of the federal government.

**Flat rent.** Rent that is based on the market rent charged for comparable units in the private unassisted rental market, set at no less than 80 percent of the current fair market rent (FMR), 80 percent of the small area fair market rent (SAFMR), or 80 percent of the unadjusted rent, with utility allowances applied as necessary. The unadjusted rent is the FMR estimated directly from source data that HUD uses to calculate FMRs in nonmetropolitan areas.

**Foster adult.** A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

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

**Foster child care payment.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

**Full-time student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

**Gender identity.** Actual or perceived gender-related characteristics.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Health and medical care expenses.** Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

**Household.** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**Housing agency (HA).** See *public housing agency*.

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

**Human trafficking.** A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

**Imputed asset.** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

**Imputed asset income.** When the value of net family assets exceeds \$50,000 and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.



**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income-based rent.** A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Income Validation Tool (IVT)** Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH), and the Social Security Administration (SSA) data sharing agreements.

**Independent contractor.** An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

**Individual with handicaps.** See *person with disabilities*.

**Jurisdiction.** The area in which the PHA has authority under state and local law to administer the program.

**Lease.** A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Local preference.** A preference used by the PHA to select among applicant families.

**Low-income family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

**Minimum rent.** An amount established by the PHA of zero to \$50.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**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.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or 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.

**Net family assets.** (1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. (2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. (3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. (4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Non-public housing over-income family.** A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

**Over-income family.** A family whose income exceeds the over-income limit.

**Over-income limit.** The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program.

**Person with disabilities.** *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Previously unemployed.** With regard to the earned income disallowance, 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.

**Public assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

**Public housing agency (PHA).** Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Real property.** Has the same meaning as that provided under the law of the State in which the property is located.

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

**Recertification.** Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining member of the tenant family.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing program, the PHA administering the program under an ACC with HUD.

**Secretary.** The Secretary of Housing and Urban Development.

**Seasonal worker.** An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

**Section 8.** Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

**Security deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

**Sexual assault.** 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.

**Single person.** A person living alone or intending to live alone.

**Social security number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Specified welfare benefit reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**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 (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

**State wage information collection agency (SWICA).** The state agency, including any Indian tribal 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.

**Technological abuse.** An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent.** The amount payable monthly by the family as rent to the PHA.

**Total tenant payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unearned income.** Any annual income, as calculated under § 5.609, that is not earned income.

**Utilities.** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

**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 or approved by a PHA 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.

**Utility reimbursement.** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

**Veteran.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**Violence Against Women Act (VAWA).** Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Waiting list.** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

**Welfare assistance.** Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.