

NORWALK HOUSING AUTHORITY  
NORWALK CONNECTICUT  
ADMISSIONS AND CONTINUED  
OCCUPANCY PLAN [ACOP]  
FOR THE  
LOW RENT PUBLIC HOUSING PROGRAM  
AND PROJECT BASED SECTION 8  
PROGRAM

**Revised 9/20/2011**  
**Effective 4/1/2012**

**RESOLUTION**  
**ADOPTION OF THE ADMISSIONS AND OCCUPANCY PLAN [ACOP] FOR THE**  
**LOW RENT PUBLIC HOUSING AND PROJECT BASED SECTION EIGHT PROGRAMS OF**  
**THE NORWALK HOUSING AUTHORITY**

Whereas a written Admissions and Continued Occupancy Administrative Plan [ACOP] and a Tenant Selection and Assignment Plan [TSAP] for administration of Low Rent Public Housing [LRPH] and of Project Based Section 8 is required to state Public Housing Agency (PHA) policy on matters for which the PHA has discretion to establish local policies; and

Whereas, a PHA must administer its programs in accordance with its ACOP and TSAP; and

Whereas a PHA is required to revise its plans to be in accordance with HUD regulations and requirements; and

Whereas the current ACOP (Admissions and Continuing Occupancy Plan) for the City of Norwalk Housing Authority (NHA), dated 11/18/1999 needs to be revised to reflect current NHA policies in accord with HUD regulations as set forth in 24 CFR Parts 5 and 912, 913, 942 and 960 and *Federal Register* Notices or other binding program directives which have been promulgated;

Now, Therefore, Be it Resolved, that NHA hereby (1) deletes from its ACOP and TSAP [now to be referred to as its Admission and Comprehensive Occupancy Plan, all policies and procedures pertaining to matters for which the PHA has discretion that have been superceded by current HUD regulations and requirements, (2) incorporates into its Administrative Plan all current non-discretionary requirements, and (3) automatically incorporates into its Administrative Plan future non-discretionary requirements concurrent with the Effective Date of the *Federal Register* rule or other binding program directive establishing such requirements.

Dated: 1/9/2008

  
Curtis O. Law, Executive Director

1/8/2010  
Revised

4/1/2010  
Effective

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## **CHAPTER 1: PURPOSE AND GENERAL POLICIES**

### **1.A. PURPOSE OF THE ADMINISTRATIVE PLAN**

The United States Department of Housing and Urban Development (HUD) requires each Public Housing Agency (PHA) administering Low Rent Public Housing programs under the United States Housing Act of 1937, as amended (42 U.S.C. I 437f), to adopt a written Admissions and Continued Occupancy Plan [ACOP] and a Tenant Selection and Assignment Plan [TSAP], hereafter referred to as the ACOP, which establishes local policies for administration of the programs in accordance with HUD requirements.

The purpose of an ACOP is to state PHA policy on matters for which the PHA has discretion to establish local policies. It is not meant to repeat, nor can it amend, non-discretionary HUD requirements. Such requirements are established by regulations appearing in the Code of Federal Regulations (CFR) and *Federal Register* Notices or other binding program directives.

The principal regulations affecting the LRPB and Project Based Section 8 programs are contained in 24 CFR Parts 1,5,8,100,108,146,245,880,881,912,913,942 and 960 and the Annual Contributions Contract [ACC] and the Housing Assistance Payments Contract [HAP]. For the most part, these regulations carefully and unambiguously define terms, and state what applicants, tenants and PHAs “must” or “shall do in order to participate in the programs”.

In recent years, HUD has provided PHAs an increasing opportunity to develop local approaches to meet certain requirements and to exercise choice as to whether or not to take a specified action. In addition, since HUD regulations and notices do not always specify or provide guidance on “how to” meet each requirement, PHAs have to develop their own implementing instructions for some subjects.

One specific change has been the ruling by HUD General Counsel that ACC units can be operated in properties developed and/or owned by private entities as well those owned and operated by PHAs. The Administrative Plan applies for the most part to these private owners but strictly as it applies to units which are designated for use by public housing households and which receive financial support under the PHA’s ACC.

In addition a Project Based Section 8 property owned by the NHA (Colonial Village) requires a Tenant Selection and Assignment Plan [TSAP] and a Fair Housing Affirmative Marketing Plan developed in accordance with HUD Handbook 4350.1 rev3. The requirements for the operation of the property are for the most part, the same as for low rent public housing [LRPH]. Hence the NHA has chosen to simplify administration of this program by integrating it with the LRPB program.

### **1.B. BACKGROUND**

The Quality Housing and Work Responsibility Act of 1998 (QHWRA, also referred to as the Public Housing Reform Act or PHRA) repealed or amended various provisions which had been critical in the operation of LRPB. In 1999 and 2000, HUD promulgated implementing regulations for the program, the most critical of which was the issuance of the Final Rule for Changes to Admission and Occupancy Requirements dated March 29, 2000 and also set in motion the 5 year and Annual Public Housing Agency Plans which is the vehicle for approval of critical LRPB operating procedures such as preferences. In addition, HUD uses Notices to convey further interpretations and requirements for PHAs operating the LRPB program.

### **1.C. ORGANIZATION AND STRUCTURE OF THE PHA**

The Low Rent Public Housing [LRPH] program is funded by the federal government and administered by the **Norwalk Housing Authority Board of Commissioners**.

The Norwalk Housing Authority Board of Commissioners are appointed in accordance with State housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability. The LRPH program is administered by the Norwalk Housing Authority.

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

The principal staff member of the NHA is the Executive Director hired and appointed by the Board of Commissioners. The Executive Director is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the NHA's staff in order to manage the day-to-day operations of the NHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Executive Director's duties include budgeting and financial planning for the agency.

### **1.D. PHA MISSION**

#### ***NHA Policy***

*The mission of the Norwalk Housing Authority is to provide safe, decent and affordable housing, and to assist the low-income housing participants to become self-sufficient.*

### **1.E. THE PHA'S PROGRAMS**

The PHA's administrative plan [ACOP] is applicable to the operation of the LRPH program and of the Project Based Section 8 program.

### **1.F. THE PHA'S COMMITMENT TO ETHICS AND SERVICE**

#### ***NHA Policy***

*As a public service agency, the NHA is committed to providing excellent service to program tenants in the community. The NHA's standards include:*

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.*
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.*
- Encourage self sufficiency of tenant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.*
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.*
- Promote a housing program which maintains quality service and integrity.*

- *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 NHA's support systems and commitment to our employees and their development.*

*The NHA will make every effort to keep tenants informed of program rules and regulations, and to advise tenants of how the program rules affect them.*

## **1.G. OVERVIEW AND HISTORY OF THE PROGRAM**

The United States Housing Act of 1937 (the "Act") initiated federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents. This Act has been amended several times, including in 1998 when the Quality Housing and Work Responsibility Act was passed.

## **1.H. PROGRAM BASICS**

The purpose of the NHA programs is to provide rental and homeownership assistance to eligible families. The rules and regulations of the program are determined by the U.S. Department of Housing and Urban Development. The PHA is afforded some choices in the operation of the program which are included in the PHA's administrative plan, a document approved by the board of commissioners of the PHA.

When a family is determined to be eligible for the program and units are available, the PHA invites a household to submit a full application for housing. When the household is qualified under the rules for admission and a suitable housing unit is available, the PHA will enter into a lease with the family permitting occupancy.

Even though the family is determined to be eligible for the program, the PHA has the responsibility of approving the family as a suitable renter or homeowner for the program.

## **1.I. THE PARTNERSHIPS**

To administer the program, the NHA enters into a contractual relationship with HUD known as the Annual Contributions Contract [ACC]. The PHA also enters into contractual relationships with HUD for the Project Based Section 8 program and other third party service providers.

For the program to work and be successful, all parties involved – HUD, the NHA and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

### **What does HUD do?**

HUD has the following major responsibilities:

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

### **What does the NHA do?**

The NHA administers the program under contract with HUD and has the following major responsibilities:

- Establish local policies;

- Review applications from interested applicant households to determine whether applicants are eligible for the program;
- Maintain waiting list and select households for admission;
- Approve the rental or homeownership unit (including assuring compliance with housing physical standards);
- Ensure that households continue to qualify under the program;
- Ensure that the NHA and households comply with program rules;
- Provide families with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the NHA's administrative plan and other applicable federal, state and local laws.

**What does the NHA as the Owner and the Manager (including if a third party contract manager is engaged) do?**

The manager has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
  - The manager should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the ACC and HAP;
- Comply with all applicable fair housing laws;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

**What does the Family do?**

The family has the following responsibilities:

- Provide the NHA with complete and accurate information, determined by the NHA to be necessary for administration of the program;
- Cooperate in attending all appointments scheduled by the NHA;
- Allows the NHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease;
- Comply with the family obligations of the lease;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the NHA and the Manager before moving or terminating the lease;

- Use the unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the NHA of any changes in family composition, income or allowable expenses;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

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

### **1.J. APPLICABLE REGULATIONS**

Applicable HUD regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 912, 913, 942 ,960 and 966
- [HUD Handbook 4350.3 rev3](#)

These may be found at <http://www.hud.gov/offices/pih/regs/fedreg.cfm>

### **1.K. OVERVIEW AND PURPOSE OF THE PLAN**

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan. This administrative plan is a supporting document to the PHA agency plan, and is available for public review as required .

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to the programs not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD approved applications for program funding.

The PHA is responsible for complying with all changes in HUD regulations pertaining to the program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the NHA programS and the functions and responsibilities of PHA staff shall be in compliance with the PHA's personnel policy and HUD's regulations as well as all federal, state and local fair housing laws and regulations.

[In addition, to make it easier to compare different program rules between LRPB and Project Based Section 8 programs operated by the NHA, this Administrative plan includes information and rules for those programs, where they differ from LRPB requirements.](#)

### **1.L. CONTENTS OF THE PLAN**

HUD regulations contain a list of what must be included in the administrative plan. This NHA administrative plan covers NHA policies on these requirements where different from those of HUD.

A primary focus of HUD's Rental Integrity Monitoring (RIM) and PHAS programs is consistency – consistency in how PHAs conduct their business and in how HUD monitors PHA activities. HUD expects that all staff will be consistent in the procedures they follow and the calculations they make and that their actions will be consistent with the PHA's administrative plan.

HUD makes a distinction between:

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

The Norwalk Housing Authority has developed its policies and procedures to be consistent with HUD's mandatory policies and to make clear which are the optional policies the PHA has adopted.

In many cases the NHA has developed procedures which implement policies and which are not included in this Administrative Plan but which are consistent with and accomplish the intention of those policies.

#### **1.M. UPDATING AND REVISING THE PLAN**

The PHA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in and provided to HUD through the PHA Plan, a separate document and required by HUD on an annual basis 75 days prior to the end of the PHA's fiscal year.

##### *NHA Policy*

*The NHA will review and update the plan as needed, to reflect changes in regulations, NHA operations, or when needed to ensure staff consistency in operation. Such changes will be included in the PHA Plan.*

#### **1.N. OTHER ITEMS IN THE PLAN**

This Administrative Plan also includes information and policies governing other properties which are not categorized technically as LRPH but which are funded by HUD under its Project Based Section 8 program. Where such PBA policies are different from those required by HUD for LRPH, they are identified in green type. In some cases further clarification can be found in HUD Handbook 4350.3 Rev3.

## **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 processes. The responsibility to further nondiscrimination pertains to all areas of the PHA's housing operations.

### **2.A. OVERVIEW**

Federal laws require PHAs to treat all applicants and tenants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

### **2.B. NONDISCRIMINATION**

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

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

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

#### **NHA Policy**

*The NHA will not discriminate*

- *on the basis of marital status or sexual orientation*
- *against the presence of household members on public assistance*
- *based on source of income of any household member*

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the LRPB and PBA housing programs
- Provide housing that is different from that provided to others

- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

### **Providing Information to Families and Managers**

The PHA must take steps to ensure that families and managers are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to applicant families about civil rights requirements.

#### **NHA Policy**

*The NHA informs staff and of the requirement not to discriminate against any person because of race, color, religion, sex, sexual orientation, national origin, age, familial status, disability or source of income in connection with the lease.*

### **Discrimination Complaints**

If an applicant or tenant believes that any family member has been discriminated against by the PHA or a manager, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or tenant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or tenant with information about how to file a discrimination complaint.

#### **NHA Policy**

*Applicants or tenants who believe that they have been subject to unlawful discrimination may notify the NHA in writing.*

*The NHA will attempt to remedy discrimination complaints made against the NHA.*

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

## **2.C. OVERVIEW OF DISABILITIES POLICIES**

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 program.

### *NHA Policy*

*The NHA will ask all applicants and tenants if they require any type of accommodations, in writing, on the intake application by including the following language:*

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

*See Tenants Handbook Attachment 1*

## **2.D. DEFINITION OF REASONABLE ACCOMMODATION**

A person with a disability may require special accommodations in order to have equal access to the program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

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 needed, the PHA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- 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
- When needed, reasonable accommodation possibilities for a family with a person with a physical disability includes but is not limited to modification of light switch height, modification of heat control height, visual emergency warning systems, visual door bells, ramps, handrails, door hardware, door thresholds, assignment of parking , toilet grab bars, toilet seat height, bathtub seats, bathtub grab bars, lever operated faucets, shower spray units, one floor apartment, handicap accessible apartment, live in aide, transfer, additional bedroom and modification of mirror angle.

## **2.E. REQUEST FOR AN ACCOMMODATION**

If an applicant or tenant 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. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual’s disability.

### NHA Policy

*The NHA will encourage the family to make its request in writing using a reasonable accommodation request form.*

*If the provision of or permission to use equipment or other modifications would result in a violation of HUD UPCS but not of the State building and health codes, 'reasonable accommodation' shall prevail, not UPCS.*

## **2.F. VERIFICATION OF DISABILITY**

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. 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 programs**

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

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

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

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. 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 will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the tenant file.

## **2.G. APPROVAL/DENIAL OF REQUESTED ACCOMMODATION**

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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 (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the 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.

**NHA Policy**

*After a request for an accommodation is presented, the NHA will respond, in writing, within 20 business days.*

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

*If the NHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the NHA will notify the family, in writing, of its determination within 20 business days from the date of the most recent discussion or communication with the family.*

**2.H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS**

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

**NHA Policy**

*To meet the needs of persons with hearing impairments the NHA has established a TDD telephone number to address all program related inquiries.*

*Additionally, a third party representative (a friend, relative or advocate, named by the applicant) will be permitted to receive, interpret and explain housing materials and be present at all meetings. In this case, the third party will be asked to sign a form indicating that all information and list of documents required were provided the applicant and that NHA policies and procedures were fully explained and/or translated correctly*

**2.I. PHYSICAL ACCESSIBILITY**

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

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988
- HUD Handbook 4350 rev3

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

- This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice which must be posted in the NHA offices in a

conspicuous place, summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.

- The 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). 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 program.

## **2.J. 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.

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a tenant family's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and 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.

## **2.K. OVERVIEW OF LEP**

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 NHA programs. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP). LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are housing applicants and tenants and parents and family members of applicants and tenants.

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 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.

[NHA Policy](#)

[See Appendix D](#)

## **2.L. ORAL INTERPRETATION**

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

### **NHA Policy**

*The NHA has hired and trained bilingual staff to be available to act as interpreters and translators. The NHA has staff members who are fluent in Spanish. Where feasible and possible, the NHA will encourage the use of qualified community volunteers.*

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

## **2.M. WRITTEN TRANSLATION**

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

### **NHA Policy**

*In order to comply with written-translation obligations, the NHA will advise persons attending presentations, receiving written materials or forms, to procure the services of a translator to provide the person translations of vital documents as needed. The NHA may provide some translated documents as it acquires the resources to do so, but this will not extend to formal program documents or to evidentiary materials.*

## **2.N. 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 program and services.

### **NHA Policy**

*The NHA has adopted a written LEP Plan (See Appendix D). Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants may be contacted for input into any revision of the written plan.*

*In developing revisions to the 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.*

## **CHAPTER 3: ELIGIBILITY FOR ADMISSION AND CONTINUED OCCUPANCY**

### **INTRODUCTION**

The PHA is responsible for ensuring that every individual and family admitted to the LRPB program and to its Project Based Section 8 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.

To be eligible for the programs:

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

### **3.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 assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

### **3.B. FAMILY AND HOUSEHOLD**

The terms *family* and *household* have different meanings in HUD programs.

#### **Family**

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

#### **NHA Policy**

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

*To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, the NHA will require applicants to demonstrate and document that either the named members have been living together as a family for at least two years or that non related members of the family are necessary under reasonable accommodations and that each individual's income and other resources will be available to meet the requirements of the lease.*

#### **Household**

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

### **3.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY**

#### **Family Break-up**

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

**NHA Policy**

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

*If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.*

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

*If the head of household and co-head move out voluntarily, the assistance will terminate unless the Executive Director approves any remaining family member as a new head of household and legally capable to execute a lease and the remaining family members pass all admission screening criteria.*

**Remaining Member of a Tenant Family [24 CFR 5.403]**

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

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

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

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

**NHA Policy**

*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.*

*The Head of Household must meet the residency requirements of the lease.*

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

A family may have a spouse or co-head, but not both.

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

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

**NHA Policy**

*Minors who are emancipated under state law may be designated as a co-head.*

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

### **3.F. DEPENDENT [24 CFR 5.603]**

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

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

##### ***NHA Policy***

*Dependents who are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or tenant family 50 percent or more of the time. If the custody is temporary, Court papers delineating the custody term and conditions will be required upon initial application, at each re-examination and if extended beyond the original date, at the date when the temporary custody expires.*

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

### **3.G. FULL-TIME STUDENT [24 CFR 5.603 and 5.612]**

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution. [See Chapter 7 also on Verification].

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

*Note that for Project Based Section 8 participants, there are restrictions on assistance to students enrolled in an institution of higher education. No assistance shall be provided under section 8 of the 1937 Act to any individual who:*

- (a) Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);*
- (b) Is under 24 years of age;*
- (c) Is not a veteran of the United States military;*
- (d) Is unmarried;*
- (e) Does not have a dependent child; and*
- (f) Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.*

### **3.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]**

#### **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 at least 50 years of age but below the age of 62.

### **Elderly Family**

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

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

### **Persons with Disabilities**

Under the housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in chapter 2. 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 housing program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

### **Disabled Family**

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

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 assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

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

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

### **NHA Policy**

*A guest can remain in the assisted unit no longer than 15 consecutive days or a total of 30 cumulative calendar days during any 12 month period.*

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

*A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.*

## **3.K. FOSTER CHILDREN AND FOSTER ADULTS**

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

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

Foster children and foster adults that are living with an applicant or assisted 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].

**NHA Policy**

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

*A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of NHA space standards [see Section 4.M].*

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

**3.L. ABSENT FAMILY MEMBERS**

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

**Definitions of Temporarily and Permanently Absent**

**NHA Policy**

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

**Absent Members of the Military**

**NHA Policy**

*When someone who has been considered a family member and is an active member of the military and is away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the person has established a separate household or the family declares that the person has established a separate household. If at a later date, the family requests approval for a military member to move back into the unit, the Executive Director may approve the move-in subject to all other screening criteria.*

**Absent Students**

**NHA 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 NHA indicating that the student has established a separate household or the family declares that the student has established a separate household.*

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

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

**NHA Policy**

*If a child is placed in foster care while receiving assistance from the NHA, the NHA will require the family to provide written verification from the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.*

## **Absent Head, Spouse, or Co-Head**

### **NHA Policy**

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

## **Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

### **NHA Policy**

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

### **PBA Policy**

*The family decides if such persons are included when determining family size for income limits. If such persons are included, they must not be listed as the head, co-head, or spouse on the lease or in the data submitted to TRACS but may be listed as other adult family member. This is true even when the confined person is the spouse of the person who is or will become the head. If the family chooses to include the permanently confined person as a member of the household, the owner must include income received by these persons in calculating family income.*

## **Return of Permanently Absent Family Members**

### **NHA Policy**

*The NHA will not approve the return of any adult family members that the NHA has determined to be permanently absent with the exception of the exclusions listed above.*

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

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

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

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

### **NHA Policy**

*A family's request for a live-in aide can be made orally or in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential and qualified for the care and well-being of the elderly, near-elderly, or disabled family member.*

*In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. This will be required at admission and at re-examination. In addition, all live-in aides will be subject to the same admission screening as tenancy applicants and may be rejected as a result of such screening.*

*The NHA will not approve a particular person as a live-in aide, and may withdraw such approval if:*

- *The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;*
- *The person commits drug-related criminal activity or violent criminal activity; or*
- *The person currently owes rent or other amounts to the NHA or to another PHA in connection with housing choice voucher or public housing assistance under the 1937 Act.*
- *Upon application for admission or during occupancy the person must document a current place of permanent residence to be considered as a live-in-aide.*
- *There is no continuing need for services requiring a live-in-aide.*
- *The aide violates any condition of the lease or any rules of Norwalk Housing Authority.*
- *Continued eligibility of a live-in aide will be determined annually at recertification.*
- *An existing family member of the household will not be considered as a live-in-aide*

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

### **3.N. INCOME ELIGIBILITY AND TARGETING**

#### **Income Limits**

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

#### **Types of Low-Income Families**

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

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

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

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

#### **Using Income Limits for Eligibility**

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

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the LRP program.
- A low-income family which qualifies for assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173

- A low-income or moderate-income family which is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits the PHA to establish additional categories of low-income families which may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

**NHA Policy**

*The NHA has not established any additional categories of eligible low-income families.*

**Using Income Limits for Targeting**

At least 40% of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing which are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 40 percent restriction.

**3.O. 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 non-citizens that have eligible immigration status. At least one family member must be a citizen, national, or non-citizen 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 [Appendix D], 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 non-citizen, 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 non-citizens. For citizens, nationals and eligible non-citizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Non-citizens below). No declaration is required for live-in aides, foster children, or foster adults.

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

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

**NHA Policy**

*Family members who declare citizenship or national status will be required to provide additional documentation to prove citizenship.*

***Eligible Non-citizens***

In addition to providing a signed declaration, those declaring eligible non-citizen 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 non-citizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

### ***Ineligible Non-citizens***

Those non-citizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. 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 non-citizen students is prohibited [24 CFR 5.522]. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen student. Such a family is eligible for prorated assistance as a mixed family.

### **Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible non-citizen. 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 24 CFR Sn. 5.16 and Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

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

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

#### **NHA Policy**

*The NHA will not provide assistance to a family before the verification of at least one family member being eligible.*

*When the NHA determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, during the verification process, the family will be sent a written notice within 10 business days of the determination.*

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

*Informal hearing procedures are contained in Chapter 16 and Appendix A.*

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

For new occupants joining the assisted 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.

**NHA Policy**

*The NHA will verify the status of applicants at the time other eligibility factors are determined.*

**3.P. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, 5.233 and PIH Notice 2010-3]**

**SSN Disclosure:**

In accordance with 24 CFR 5.216, applicants and participants (including each member of the household) are required to disclose his/her assigned SSN, with the exception of the following individuals:

a. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.

1. A family that consists of a single household member (including a pregnant individual) who does not have eligible immigration status is not eligible for housing assistance and cannot be housed.

2. A family that consists of two or more household members and at least one household member that has eligible immigration status, is classified as a mixed family, and is eligible for prorated assistance in accordance with 24 CFR 5.520. The PHA may not deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.

b. Existing program participants as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid. PHAs may confirm HUD's validation of the participant's SSN by viewing the household's Summary Report or the Identity Verification Report in the EIV system.

c. Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.

**NHA Policy**

*The NHA requires that all members of a household provide Social Security numbers irrespective of age and relationship to the head of household, with the exception of those individuals who do not contend to have eligible immigration status.*

Once the individual's verification status is classified as verified, the PHA should remove and destroy, by no later than the next re-exam of family income or composition, the copy of the documentation referenced in Section 6: SSN Documentation (Acceptable evidence of SSN) on PIH Notice 2010-3. Paper documentation should be destroyed by either shredding or burning. Electronic documentation should be destroyed by erasing or permanently deleting the file. The retention of the EIV report in the tenant file is adequate. PHAs are encouraged to minimize the number of tenant records that contain documents which display the full nine-digit SSN [PIH Notice 2010-3].

### **NHA Policy**

Once NHA verifies and classifies the individual's SSN status, NHA will remove and destroy by shredding, no later than the next re-exam date, any documents containing social security numbers. EIV reports shall be maintained in the tenant file.

### **3.Q. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]**

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

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

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F.

### **3.R. OVERVIEW DENIAL OF ASSISTANCE**

A family that does not meet the following eligibility criteria must be denied assistance.

In addition, HUD requires or permits the PHA to deny assistance based on certain types of current or past behaviors of family members.

#### **Forms of Denial**

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list,
- Denying or withdrawing a unit offer,
- Not approving a request for tenancy

#### **Prohibited Reasons for Denial of Assistance**

HUD rules prohibit denial of assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program

### **3.S. MANDATORY DENIAL OF ASSISTANCE**

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, and/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 or neighbors.

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

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

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the 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.

*NHA Policy*

*The NHA may admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 10 years for drug-related criminal activity, if the NHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the NHA or that the offense was originally classified as a misdemeanor.*

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

*NHA Policy*

**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)].**

**NHA HAS REASONABLE CAUSE TO BELIEVE THAT ANY HOUSEHOLD MEMBER'S CURRENT USE OR PATTERN OF USE OF ILLEGAL DRUGS, OR CURRENT ABUSE OR PATTERN OF ABUSE OF ALCOHOL, MAY THREATEN THE HEALTH, SAFETY, OR RIGHT TO PEACEFUL ENJOYMENT OF THE PREMISES BY OTHER RESIDENTS. IN DETERMINING REASONABLE CAUSE, NHA WILL CONSIDER ALL CREDIBLE EVIDENCE, INCLUDING BUT NOT LIMITED TO, ANY RECORD OF CONVICTIONS, ARRESTS, OR EVICTIONS OF HOUSEHOLD MEMBERS RELATED TO THE USE, SALES, POSSESSION OR ABUSE OF ILLEGAL DRUGS OR THE ABUSE OF ALCOHOL.**

**CURRENTLY ENGAGED IN IS DEFINED AS ANY USE OF ILLEGAL DRUGS DURING THE PREVIOUS SIX (6) MONTHS.**

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

*NHA Policy*

*In determining reasonable cause, the NHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol.*

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

### **3.T. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE**

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

#### **Criminal Activity**

HUD permits, but does not require, the PHA to deny tenancy if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive admission to housing, certain types of criminal activity.

##### **NHA Policy**

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

- *Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100]. A determination that the offense was originally classified as a misdemeanor may be considered by the NHA as a reason for not denying admission.*
- *Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].*
- *Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or*
- *Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the NHA (including a NHA employee or a NHA contractor, subcontractor, or agent).*

*Immediate vicinity means within a 1,500 feet radius of any NHA premises.*

*Evidence of such criminal activity includes, but is not limited to:*

- *Conviction for drug-related or violent criminal activity within the past 10 years.*
- *Any arrests for drug-related or violent criminal activity within the past 10 years.*
- *Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 10 years.*

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

#### **Criminal Records**

Before a PHA denies admission to the PHAs housing program on the basis of a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record. The PHA may not pass along to the applicant the costs of a criminal records check.

##### **NHA Policy**

*See Appendix E “Criminal Offender Record Information Policy”*

#### **Prohibition Against Double Subsidies**

Tenants must not receive assistance for two units at the same time. Tenants must not benefit from assistance in a unit already assisted through other HUD programs.

This prohibition does not prevent a person who is currently receiving assistance from applying for an assisted unit in another property. The assisted tenancy in the unit being vacated must end the day before the subsidy begins in the new unit.

### **3.U. SCREENING OF APPLICANTS**

#### **Previous Behavior in Assisted Housing**

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing:

##### **NHA Policy**

*The NHA will not deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under a Family Self-Sufficiency (FSS) program or the Welfare to Work program.*

*The NHA in general, will deny assistance to an applicant family if:*

- *The family does not provide information which the NHA or HUD determines is necessary in the administration of the program.*
- *The family does not provide complete and true information to the NHA.*
- *Any family member evicted from Federally assisted housing in the last three years.*
- *The NHA has ever terminated assistance under the HCV program for any member of the family.*
- *Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.*
- *The family owes rent or other amounts to any PHA or the NHA in connection with the HCV, Certificate, Moderate Rehabilitation, Public Housing, Project Base Section 8 or State of Connecticut housing programs, unless the family repays the full amount of the debt within 5 days of being selected from the waiting list.*
- *If the family has not reimbursed any PHA or the NHA for amounts the PHA or the NHA paid to an owner under a HAP contract for rent, or damages to the unit, or other amounts owed by the family under the lease, unless the family submits a plan for repaying the full amount of the debt within 5 days after being selected from the waiting list for admission and prior to approval of a lease. Failure to submit a plan will be cause for not offering a unit for occupancy. Failure to follow the plan during the offering period will be cause for withdrawal of the offer to lease.*
- *The family has breached the terms of a repayment agreement entered into with the NHA, unless the family repays the full amount of the debt covered in the repayment agreement within 5 days after being selected from the waiting list for admission.*
- *A family member has engaged in or threatened violent or abusive behavior toward NHA personnel or other persons as documented in a police report or as observed and reported in a written report by NHA personnel.*

*Abusive or violent behavior towards PHA and other 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 assistance, the NHA will generally consider the factors discussed in Section 3.III.E. Upon consideration of such factors, the NHA may, on a case-by-case basis, decide not to deny assistance.*

### **Screening for Eligibility**

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the NHA programs. 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].

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.

If the PHA proposes to deny assistance 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)].

#### **NHA Policy**

*The NHA will conduct screening to determine an applicant family's criminal history as per policy in Appendix E.*

### **Screening for Suitability as a Tenant**

The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant. The PHA is responsible for screening and selection of the family to occupy the authority's unit. The PHA may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

#### **NHA Policy**

*The NHA will conduct additional screening to determine an applicant family's suitability for tenancy. It is the NHA's policy that all applicants being admitted to the program should be screened in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. During screening the NHA will require applicants to demonstrate ability to comply with essential provisions of the lease as summarized below.*

*Note that screening for placement on the waiting list and for preferences on that list, is limited to basic eligibility such as income, citizenship, residential location, job status, disability, family composition and criminal history.*

*The more detailed screening policy outlined below is utilized at the time a household on the waiting list is being invited for admission to occupancy or when an addition to the household is being made by the family and the person or persons being added are children being born to or adopted by the family.*

*1. 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 and equipment in a reasonable way;*

- *to create no health, or safety hazards, and to report maintenance needs;*
- *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 that threatens the health, safety or right to peaceful enjoyment of other residents or staff; and not to engage in drug-related criminal activity on or near NHA premises;*
- *to supervise their children's attendance at school as per the NHA's Truancy Policy [See Appendix M];*
- *to comply with necessary and reasonable rules and program of HUD and the NHA; and,*
- *to comply with health and safety codes.*

## 2. Drug Testing:

### *Housing Applicants Subject to Testing*

*Under the Norwalk Housing Authority's drug testing policy, all members of household applying for public housing units to the NHA, who are 18 years of age or older will be required to submit to drug testing. No housing applicant will be required to submit to testing unless an offer of housing has been made. An offer of housing within the Norwalk Housing Authority, however, is conditioned on the housing applicant testing negative for illicit and/or illegal drugs.*

### *Safeguards*

*The Norwalk Housing Authority's policy is intended to comply with all state laws governing drug testing and is designed to safeguard housing applicant privacy rights to the fullest extent of the law.*

### *Selection*

*All Norwalk Housing Authority housing applicants who have been offered housing will be required to submit to drug testing.*

### *Tested Substances*

*Norwalk Housing Authority's drug testing program is limited to testing for illicit and/or illegal drugs. Any other substances that may be tested using the same method used to test for controlled substances will not be tested and, if found, will not be reported.*

### *Written Notice*

*Before being required to submit to a drug test, the housing applicant will receive written notice of the request and requirements for testing. The housing applicant shall submit to the required testing within the date specified in the notice. Failure to submit to the testing within the required time period will result in the withdrawal of the offer of housing.*

### *Licensed Laboratories*

*Any drug testing required or requested by the Norwalk Housing Authority will be conducted by a laboratory licensed by the state. Currently, the NHA uses Stamford Corporate Health, but may use another designated testing site licensed by the state.*

### *Notice of Results*

*The Norwalk Housing Authority will notify the housing applicant of the results of drug testing within a reasonable time after it receives the results from the laboratory, normally within one week. To preserve the confidentiality the Norwalk Housing Authority strives to maintain, the housing applicant will be notified in person, by phone or by mail whether the test was negative or confirmed positive and, if confirmed positive, what the next step is.*

#### *Positive Test Results*

*If the housing applicant receives notice that the housing applicant's test results were confirmed positive, the housing applicant will be given the opportunity to explain the positive result following the housing applicant's receipt of the test result. In addition, the housing applicant may have the same sample retested at a laboratory of the housing applicant's choice.*

#### *Confidentiality*

*The Norwalk Housing Authority will keep the results of drug tests strictly confidential. The Housing Authority shall designate specific individuals to receive information relating to drug test results and to communicate those results to the housing applicant. Only those designated persons, or those persons with a need to know, will have access to test results. The housing applicant must consent in writing before test results will be released to anyone else.*

#### *Costs*

*The Norwalk Housing Authority will pay the cost of any drug testing that it requires or requests housing applicants submit to, including retesting of confirmed positive results by the Housing Authority. Any additional tests which the housing applicant requests will be paid for by the housing applicant.*

#### *Posting*

*In addition to the information contained herein, , the Norwalk Housing Authority's drug policy is posted on a housing applicant information bulletin board in the lobby of the main office of the NHA and is contained in the policies and procedures of the Housing Authority where it may be reviewed by housing applicants.*

### *3. How the NHA will check ability to comply with essential lease requirements:*

*Information to be considered in completing applicant screening 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 conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:*

- a. 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;*
- b. Adversely affect the physical environment or financial stability of the project;*
- c. Violate the terms and conditions of the lease;*
- d. Require services from NHA staff that would alter the fundamental nature of the NHA's program.*
- e. The NHA will conduct a detailed interview of all applicants using an interview checklist. The form will ask questions based on the essential elements of tenancy. Answers will be subject to third party verification.*
- f. The NHA will complete a credit check and a NHA rental history check. All applicants must be in good standing with utility accounts to establish utility account credit at move-in.*

- Credit scores are evaluated for head of household, spouse, or co-head. If each respective applicant family member has individually scored 120 or greater in the First Advantage SafeRent report, the credit rating is acceptable. If any applicant family member's score is less than 120, a more detailed review is conducted to predict the future performance of the applicant. Each family member's account is reviewed; any account for medical, foreclosure or repossession or under \$100.00 is disregarded. Individual accounts are reviewed based on age, type, outstanding balance, charge off or in collection. If one member's credit is acceptable while an other member's is not, then the more detailed review described above is conducted for each applicant and averaged. See Appendix N.*
- g. Payment of funds owed to the NHA is part of the screening evaluation. Payment of outstanding balances is an opportunity for the applicant to demonstrate an improved track record. The NHA will consider any past balances owed the NHA by the applicant for any program that the NHA operates. The NHA expects these balances to be paid in full (within 5 days after being selected before initiating the full screening process. The NHA will not admit families who owe back balances.*
  - h. The NHA will complete a criminal background check on all applicants including other adult members in the household or any member for which criminal records are available.*
  - i. The NHA will conduct a home visit on an applicant. The purpose of such a home visit is to confirm information supplied by the applicant and gleaned from references, in determining the applicant's compliance with screening criteria. All applicants shall have at least two days' advance notice of a home visit. A written check list will be used and photographs may be taken as appropriate. The check list will cover items such as:*
    - Evidence of destruction of property*
    - Unauthorized occupants*
    - Evidence of criminal activity*
    - Conditions inconsistent with application information*
  - j. The NHA's examination of relevant information respecting past and current habits or practices will include contact with the previous two landlords (where known) to determine prior tenant performance in terms of lease responsibilities. In addition it will include but is not limited to, an assessment of:*
    - The applicant's past performance in meeting financial obligations, especially rent. Failure to meet financial obligations excludes late payments less than 3 times per year or payments withheld due to the owner failing to provide living conditions as per lease requirements or payment failures due to circumstances beyond the family's control.*
    - A record showing pattern of disturbance of neighbors (disturbances 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 tenants or neighbors.*
    - Any history of criminal activity on the part of any applicant family member involving crimes of physical violence to persons or property and other criminal acts including drug-related criminal activity which would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or the development.*
    - A record of eviction from assisted housing within 5 years for drug related criminal activity.*
    - The applicant or any applicant family member has been determined to be illegally using a controlled substance or involuntary termination from residential programs (taking into account date and circumstances).*

- *Abandonment of a public housing unit without advising NHA officials so that staff may secure the unit and protect its property from vandalism.*

*An applicant's intentional misrepresentation of any information related to eligibility, award of preference for admission, housing history, allowances, family composition or rent will result in rejection.*

*Applicants must be able to demonstrate the ability and willingness to comply with the terms of NHA's lease, either alone or with assistance which they can demonstrate that they have or will have at the time of admission. Availability of assistance is subject to verification by NHA.*

#### *4. Screening applicants who claim mitigating circumstances*

*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. To be factored into the NHA's screening assessment of the applicant, it must be possible to verify, mitigating circumstances.*

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

*If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, NHA shall have the right to refer such information to persons qualified to evaluate the evidence and verify the mitigating circumstance. NHA 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 might include:*

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

*Consideration of mitigating circumstances does not guarantee that applicant will qualify for admission. The NHA 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; and,*
- *the nature and seriousness of any criminal activity, especially drug related criminal activity that appears in the applicant's record.*

#### *4. Qualified and Unqualified Applicants*

*Verified information will be analyzed and a determination made with respect to:*

- *Eligibility of the applicant as a family;*
- *Eligibility of the applicant with respect to income limits for admission;*
- *Eligibility of the applicant with respect to citizenship or eligible immigration status;*
- *Unit size required for the family;*
- *Preference category (if any) to which the family is entitled;*
- *Qualification of the applicant with respect to the applicant selection criteria.*

Families determined to be qualified will be notified by the NHA of the approximate date of occupancy insofar as that date can be reasonably determined. Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which they are entitled under both INS and NHA procedures, such procedures requiring written extensions for eligibility verification by the NHA. [See 24 CFR Sn.5.514].

The NHA will make every effort to accurately estimate an approximate date of occupancy. However, the date given by NHA does not mean that applicants should expect to be housed by, that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by the NHA, such as turnover rates and market demands as they affect bedroom sizes and project location.

Applicants determined unqualified for admission to the waiting list or later to occupancy will be promptly notified. These applicants will receive a Notice of Rejection from the NHA, stating the basis for such determination. The NHA shall provide such applicants with an opportunity for informal review of the determination as described in the procedure for informal reviews. The informal review for applicants should not be confused with the resident grievance process. Applicants are not entitled to use of the resident grievance process.

Applicants who are known to have a disability or handicap and have been determined eligible but who fail to meet the applicant selection criteria, will be offered an opportunity for a second meeting to have their cases examined to determine whether mitigating circumstances or reasonable accommodations will make it possible for them to be housed in accordance with the Screening Procedures.

### **3.V. CRITERIA FOR DECIDING TO DENY ASSISTANCE**

#### **Evidence**

##### **NHA Policy**

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

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

#### **Consideration of Circumstances**

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

##### **NHA Policy**

The NHA will consider the following factors when making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities.
- 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 PHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program approved by the NHA, or evidence of otherwise having been rehabilitated successfully.

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

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

#### **NHA Policy**

*As a condition of receiving assistance, a family shall not be allowed to remove the culpable family member from the application.*

### **Reasonable Accommodation**

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.

#### **PHA Policy**

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

### **3.W. NOTICE OF ELIGIBILITY OR DENIAL**

#### **Eligible for Assistance**

If the family is eligible for assistance, the PHA will notify the family when it extends the invitation to attend the briefing appointment, as discussed in Chapter 5.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe (1) the reasons for which assistance has been denied (2) the family's right to an informal review, and (3) the process for obtaining the informal review. See Chapter 16, for informal review policies and procedures.

If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record.

Notice requirements related to denying assistance to non-citizens are contained in Section 3.II.B.

#### **NHA Policy**

*The family will be notified of a decision to deny assistance in writing within 15 business days of the determination.*

## **CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION**

### **INTRODUCTION**

When a family wishes to receive housing assistance, the family must submit an application which provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When a LRP unit becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, 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. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance and that the PHA affirmatively further fair housing goals in the administration of the program. 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 taking applications, managing the waiting list and selecting families for LRP. The policies outlined in this chapter are organized into three sections, as follows:

#### **4.A. APPLYING FOR HOUSING**

Any family that wishes to receive housing assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA.

##### ***NHA Policy***

##### ***Application for Placement on the Waiting List [Appendix I]***

*When accepting applications after opening the waiting list, the NHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility (income, family composition and citizenship) and to determine the family's placement on the waiting list (preferences). The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.*

*Families may obtain preliminary application forms from the NHA's office when the waiting list is opened and according to the advertised procedures at that time.*

*Completed preliminary applications must be returned to the NHA by mail, or submitted in person during designated business hours. Preliminary applications must be complete in order to be accepted by the PHA for processing.*

*If a unit is available for occupancy within 90 days and there are no applications in the 'Ready Pool', the Applicant will be invited to submit at the same time, both the Preliminary Application for Placement on the Waiting List and the Full Application for Admission to Housing.*

#### **4.B. ACCESSIBILITY OF THE APPLICATION PROCESS**

##### **Elderly and Disabled Populations [24 CFR 8]**

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English

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

### **Limited English Proficiency**

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

### **4.C. PLACEMENT ON THE WAITING LIST**

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations. Where the family is determined to be ineligible, the PHA must notify the family in writing. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list other than what preferences the family may qualify for and which would place the family in a different position other than date and time.

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

##### **NHA Policy**

*If the NHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the NHA will send written notification of the ineligibility determination within 15 business days of receiving a complete preliminary application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review within 14 business days and explain the process for doing so (see Chapter 16).*

*An application will not be considered valid if submitted before the time period in the admissions restriction has expired.*

*Note that the NHA requires documentation for any family seeking or claiming foster children and/or children in foster care, must have those children. If family composition changes after occupancy a transfer request can be made.*

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

##### **NHA Policy**

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

*Applicants will be placed on the waiting list according to the date and time of receipt of the application or by lottery assignment and according to the preferences they are entitled to at that time.*

*If a family is eligible for placement on the waiting list but has insufficient evidence of eligibility as a citizen or as an alien, it will be placed on the waiting list but will be informed that its placement is subject to providing all required documentation and evidence of eligibility prior to being invited to submit a full application for admission to housing.*

#### **4.D. ORGANIZATION OF THE WAITING LIST**

The PHA's waiting list must be organized in such a manner to allow the PHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The public housing waiting list must contain the following information for each applicant listed:

- Applicant Head/co-head name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Total Household Income;
- Disability status and Special Accommodations request ('reasonable accommodations')

Project Based Section 8 programs require additional information as follows:

- For Civil Rights monitoring under Fair Housing, the NHA will keep racial and ethnic information in such a way, that it can be accessed and provided to HUD if requested by HUD.

HUD requires the PHA to maintain a single waiting list for the LRPH program unless it serves more than one county or municipality or unless it has been approved for site based waiting lists. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served and for each development approved for a site based waiting list.

##### **NHA Policy**

*The NHA maintains a community wide waiting list for all housing developments with the exception of 16 School Street which has a site based waiting list.*

HUD directs that a family that applies for assistance must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs. HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, HCV and other subsidized housing programs. A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the waiting list, or any preferences for which the family may qualify.

#### **4.E. OPENING AND CLOSING THE WAITING LIST**

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

A PHA is permitted to close the waiting list if it has an adequate pool of families based on turnover rates. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

##### **NHA Policy**

*The NHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants, unless otherwise determined by the Executive Director. Where the NHA has particular preferences or funding criteria which require a specific category of family, the NHA may elect to continue to accept applications from these applicants while closing the waiting list to others.*

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

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

applications will be received.

**NHA Policy**

*The NHA will open the waiting list at such times when the pool of applicants is insufficient to meet the general demand for units, the specific demand for a special program such as HOPE VI or specific regulatory and other requirements such as targeting and deconcentration. The NHA will announce the reopening of the waiting list at least 5 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.*

*The NHA will give public notice by publishing the relevant information in suitable media outlets, including the Norwalk Hour and the NHA Website.*

**4.F. FAMILY OUTREACH**

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the resources it has been allotted.

Because HUD requires the PHA to serve 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 assistance.

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 which reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

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

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

**NHA Policy**

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

**4.G. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

**NHA Policy**

*While the family is on the waiting list, the family must immediately inform the NHA of changes in contact information, including current residence, mailing address and phone number and any changes in claimed preferences. The changes must be submitted in writing.*

**4.H. UPDATING THE WAITING LIST**

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

**Purging the Waiting List**

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

### NHA Policy

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

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

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

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

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

*If the notice is returned by the post office with a forwarding address, the family is advised they will be removed from the waiting list for failure to respond and is so notified if possible, unless the family provides a reasonable explanation within 7 days. The Deputy Director, may reinstate the family if s/he determines the lack of response was due to a NHA error, or to circumstances beyond the family's control.*

### **Removal from the Waiting List**

#### NHA Policy

*If at any time an applicant family is on the waiting list, the NHA determines that the family is not eligible for assistance (see Chapter 3) the family will be removed from the waiting list.*

*If a family is removed from the waiting list because the NHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review of the NHA's decision (see Chapter 3.V and Chapter 16).*

### **Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]**

#### NHA Policy

*NHA will terminate the lease if it determines that a household member has furnished false or misleading information concerning current illegal drug use or alcohol abuse.*

*NHA 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, including testing*

### **4.I. SELECTION**

Families are selected from the waiting list according to the policies provided in this chapter.

### **4.J. SELECTION METHOD**

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

**NHA Policy**

Full application for admission to housing

*Up to 120 days before unit availability, families on the waiting list will be invited to submit a Full Application which will include the information listed on the following pages and fully described in Appendix J.*

**Local Preferences**

PHAs are permitted to establish local preferences, and to give priority to serving families which 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 PHA plan and the consolidated plan, and must be based on local housing needs and priorities which can be documented by generally accepted data sources.

**NHA Policy**

*The need for public housing in Norwalk exceeds the availability of funds for this purpose and a housing unit is a scarce resource which is in great demand. Housing is made available to those most in need and reflecting the priorities of the Norwalk Housing Authority through the local preferences described below.*

**Local Preferences**

- *Working head of household or working family member including a person 62 years old or older or a disabled person*
- *Person who lives in or works in Norwalk or who has a job offer to work in Norwalk.*

**Ranking Preferences**

*Ranking Preferences are the total weight assigned to preferences using the weighting table below.*

*Applicants may have multiple preferences. All preference selections are made using this weighting system and if applicants have the same weight, then lottery designation or date and time are used to select. For those without any preferences, selections are made by lottery designation or date and time of the application.*

*The weighting table is:*

<b><i>Preference</i></b>	<b><i>Weight</i></b>
<i>1. Working head of household or working family member, or a person 62 years old or older or a disabled person</i>	<i>3</i>
<i>2. Person who lives in or works in Norwalk or who has a job offer to work in Norwalk</i>	<i>1</i>
<i>Total Preference Points Possible</i>	<i>4</i>

*Applicants may have multiple preferences. All preference selections are made using this weighting system and within each pool applicants are selected by date and time. If date and time are the same, a lottery is used to sort applicants.*

Note: Families with disabilities are given preference for one bedroom family units over other eligible one bedroom applicants. **Income Targeting Requirement**

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to the LRP program during the PHA’s fiscal year. ELI families are those with annual incomes at or below

30% of the area median income. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family. In addition, if the HCV program exceeds its minimum targeting requirement of 75% ELI admissions, the minimum LRPB targeting threshold may be reduced by the lesser of 10% of LRPB admissions for the fiscal year; 10% of admissions to the HCV program for the fiscal year; or the number of low income [ $>30\%$  of AMI] families commencing occupation in the fiscal year in census tracts with a poverty rate greater than 29%.

In addition, the PHA must monitor its developments in terms of concentration of low income or high income residents. If a 'covered' development requires a deconcentration of either low income or high income families, the PHA may skip families on the waiting list in order to satisfy the deconcentration requirement.

For Project Based Section 8 developments, at least 40% of the move-ins must meet the ELI standard. Compliance with income targeting requires owners to count both move-ins [from other HUD assisted developments] and initial admissions to the Section 8 project based assistance program.

#### **NHA Policy**

*The NHA will monitor progress in meeting the ELI requirement throughout the fiscal year. It should be noted that the Norwalk Housing Authority reserves the right to skip applicants who are not Extremely Low Income ( $<30\%$  of Median Income for the Stamford-Norwalk SMSA) if and when it is apparent that the agency will not meet the minimum target of 40% [as adjusted by HUD rules] of new admissions being Extremely Low Income for the agency's fiscal year. It may also skip families where a development has been determined to be 'concentrated' in order to either raise or lower the average household income of that development.*

*For Colonial Village (Project Based Section 8), the calculation shall include existing tenants as well as new admissions.*

#### **Order of Selection from the Waiting List**

The PHA system of preferences may select families either according to the date and time of application, or by a random selection process, within preference groups.

#### **NHA Policy**

*In general, families will be selected from the waiting list ranked by preference and then by date and time. If families have the same date and time, then those families will be selected by a randomly generated order or lottery.*

*Subsequent to verification of the information provided in the full application, the NHA will group the applications into two tiers.*

*Tier 1 will include all applicants with incomes which do not exceed 30 % of median income for the Norwalk area (NOTE: Families in this income category are termed Extremely Low-Income (ELI) families).*

*Tier 2 will include all applicants with incomes that exceed 30 % of median income but do not exceed 80 % of median income for the area (Such families are termed Low-Income Families).*

*Within each tier, families with local preferences will be listed first. Those preference-holders meeting the ranking preference described in this Chapter and then will be filled first by earliest date of pre-application (including lottery allocated dates and position), followed by preference-holders not meeting the ranking preference ordered by earliest date of pre-application (including lottery allocated dates and position).*

*In order to assure that the statutory income-targeting requirement that "not less than 40 % of the families admitted to a NHA's LRPB and Project Based Section 8 programs during the NHA fiscal year from the NHA waiting list be ELI families", 4 of the initial 10 referrals to briefings shall be families on the waiting list who are Tier 1 families and 6 of the initial 10 referrals to briefings shall be Tier 2 families that are preference-holders. If there is not a sufficient number of Tier 2*

*preference-holders, one or more of the referrals which were to be initially Tier 2 families will become Tier 1 preference-holders.*

*In addition, if the agency's deconcentration analysis indicates that there are any asset groups which require targeted selection of below average or above average income families then a further tiering of applications will be done.*

*Tier 3 will include all covered applicants whose incomes are less than 85% of the average income of all covered families.*

*Tier 4 will include all covered applicants whose incomes are more than 115% of the average income of all covered families.*

*As units become available for any covered development under the deconcentration analysis, then in addition to the targeting tiers and procedures, skipping will be applied to admit only those applicants who are also in Tier 3 or Tier 4 as may be required.*

#### **4.K. NOTIFICATION OF SELECTION**

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

##### **NHA Policy**

*The NHA Admissions Office will notify the family by first class mail when it is selected from the waiting list for processing into the "ready pool". The notice will inform the family of the requirements which must be followed in terms of completing the selection process.*

*If a notification letter is returned to the NHA, the family will be removed from the waiting list as delineated in section IV.H above.*

#### **4.L. THE SELECTION VERIFICATION PROCESS**

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.

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability.

##### **NHA Policy**

*Should an applicant due to a disability, be unable to attend briefings and/or interviews they may make a Reasonable Accommodation Request to the NHA. Arrangements will be made to re-schedule missed visits or in special cases NHA staff may visit the person who is disabled if requested. An Accommodation Request may be made at any time and as often as needed.*

#### **4.M. OCCUPANCY STANDARDS**

HUD guidelines require that NHA's establish reasonable occupancy standards for the determination of unit size. The Fair Housing Act prohibits HUD from directly or indirectly establishing national occupancy standards. Thus the standards used for the unit size are governed by the minimum unit size requirements of local habitation codes. The NHA does not determine who shares a bedroom/sleeping room, HUD states that a reasonable standard is 2 persons per bedroom but that a 1 person per bedroom standard is also reasonable. The NHA's subsidy standards for determining unit size shall be applied in a manner consistent with Fair Housing guidelines.

##### **NHA POLICY**

*State and Norwalk habitation codes require the following standards for occupancy;*

STANDARD GUIDELINES FOR DETERMINING UNIT SIZE

<i>Unit Size</i>	<i>Persons in Household</i>	<i>Persons in Household</i>
<i>(Minimum #)</i>	<i>(Minimum #)</i>	<i>(Maximum #)</i>
<i>0 Bedroom</i>	<i>1</i>	<i>1</i>
<i>1 Bedroom</i>	<i>1</i>	<i>2</i>
<i>2 Bedrooms</i>	<i>2</i>	<i>4</i>
<i>3 Bedrooms</i>	<i>3</i>	<i>6</i>
<i>4 Bedrooms</i>	<i>4</i>	<i>8</i>
<i>5 Bedrooms</i>	<i>5</i>	<i>10</i>

*guidelines specific to each development are in the following chart:*

<i>PROJECT</i>	<i>PROJECT #</i>	<i>UNITS IN COMPLEX</i>	<i>Unit Guidelines</i>
<i>16 School Street</i>	<i>050</i>	<i>34</i>	<i>Standard State Development</i>
<i>20 West Avenue</i>	<i>07</i>	<i>54</i>	<i>Standard Senior</i>
<i>25 Chapel Street</i>	<i>19</i>	<i>29</i>	<i>1 Child Per Bedroom</i>
<i>36 Fairfield Avenue</i>	<i>18</i>	<i>29</i>	<i>Standard</i>
<i>356 Main Avenue</i>	<i>22</i>	<i>25</i>	<i>1 Child Per Bedroom</i>
<i>Colonial Village</i>	<i>27</i>	<i>200</i>	<i>Standard</i>
<i>Irving Freese</i>	<i>04</i>	<i>60</i>	<i>Standard Senior</i>
<i>John Shostak</i>	<i>06</i>	<i>40</i>	<i>Standard Senior</i>
<i>King Kennedy Homes</i>	<i>08</i>	<i>31</i>	<i>Standard</i>
<i>Leroy Downs</i>	<i>05</i>	<i>49</i>	<i>Standard Senior</i>
<i>Ludlow Village</i>	<i>116</i>	<i>30</i>	<i>Standard Senior: State Development</i>
<i>Meadows Garden</i>	<i>16</i>	<i>54</i>	<i>Standard</i>
<i>Roodner Court</i>	<i>02</i>	<i>218</i>	<i>1 Child Per Bedroom</i>
<i>Seaview/Elmwood</i>	<i>17</i>	<i>38</i>	<i>Standard</i>
<i>Senior Court</i>	<i>03</i>	<i>60</i>	<i>Standard Senior</i>
<i>Washington Village</i>	<i>01</i>	<i>136</i>	<i>1 Child Per Bedroom</i>

<i>PROJECT</i>	<i>PROJECT #</i>	<i>UNITS IN COMPLEX</i>	<i>Unit Guidelines</i>

*The NHA shall grant exceptions from the standards if the family requests and the NHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances*

*If the NHA makes an error in the bedroom size designation the family will not be penalized for refusing the unit and will remain in their position on the waiting list. If their admissions process had been terminated because of that error and there is a vacant unit for the corrected designation, the NHA shall resume the admissions process.*

*Based on these standards, the NHA will verify family composition from the documents submitted and determine if the vacant unit/s being offered are appropriate for the household. If they are not, the admissions process will be terminated as per the procedure in 4-N below.*

**4.N. COMPLETING THE ADMISSION PROCESS**

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the waiting list.

**NHA Policy**

*If the NHA determines that the family is ineligible, the NHA will send written notification of the ineligibility determination within 15 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 review (Chapter 16).*

*If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list, the family will be returned to the appropriate position on the waiting list to which they are then entitled. The NHA will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.*

## **CHAPTER 5: BRIEFINGS AND ASSIGNMENTS**

### **INTRODUCTION**

This chapter explains the briefing and unit assignment process. When a family is determined to be eligible for the housing program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This must be accomplished through provision of a briefing packet containing written documentation of information the family needs to know. In addition a PHA may conduct an oral briefing. Once the family is fully informed of the program's requirements, the PHA issues the family a unit assignment. The assignment includes the unit size the family qualifies for based on the PHA's subsidy standards, as well as the date of unit availability for occupancy.

### **5.A. BRIEFING**

At any briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and LEP requirements. It will ensure that the briefing site and application process is fully accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

#### **NHA Policy**

*The NHA will conduct oral briefings.*

*The NHA generally conducts these briefings as individual meetings*

*If necessary because of an applicant's disability preventing full participation in the application process, the NHA will make other arrangements.*

*Briefings will be conducted in English or other languages, as required by Section 504 or by the NHA's LEP policy (APPENDIX D).*

### **Notification and Attendance**

#### **NHA Policy**

*Families will be invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing. Generally, the head of household is required to attend the briefing but all adult members of the family are requested to be present. If the head of household is unable to attend, the NHA may approve another adult family member to attend the briefing.*

*If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any alternate address provided on the initial application.*

*Applicants who advise the NHA in writing including email at least 1 day in advance of their inability to attend a scheduled briefing or provide acceptable justification in writing including email of an unforeseen emergency within 3 days after the meeting, will be scheduled for another briefing. The NHA will notify the family of the date and time of their second scheduled briefing. Applicants whose justification is not accepted or who fail to attend the second scheduled briefing, without NHA approval, will be denied assistance (see Chapter 3).*

*Justification based on a verified medical condition preventing attendance, or based on a verified employer demand preventing attendance or on any other verified emergency, will constitute acceptable justification. Also as noted in the prior section, persons unable to fully participate in the normal briefing process due to a disability will be provided alternate access to the information of the briefing process.*

*Such applicants will be skipped in the assignment of units until such time as they have completed their scheduled group briefing.*

*The NHA Oral Briefing will cover, as a minimum, the topics in the Tenant Handbook. See Attachment I.*

## **5.B. LEASE AND FAMILY OBLIGATIONS**

Obligations of the family are described in the regulations and in the lease itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing and the same information must be included in the briefing packet. When the family's unit is approved and the lease is executed, the family must meet those obligations in order to continue participating in the program and occupying the unit. Violation of any family obligation may result in termination of the lease, as described in Chapter 12. See Attachment 10 for the Federal lease and a full list of family obligations.

### **Time Frames for Reporting Changes Required By Family Obligations**

#### **NHA Policy**

*Unless otherwise noted below, when family obligations require the family to respond to a request or notify the NHA of a change, notifying the NHA of the request or change within 10 business days is considered prompt notice.*

*When a family is required to provide notice to the NHA, the notice must be in writing.*

### **Family Obligations**

Following is a listing of some of a tenant family's obligations under the LRPB and Project Based Section 8 programs:

- The family must supply any information that the NHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the NHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any UPCS breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

#### **NHA Policy**

*If the unit is made uninhabitable by fire or other casualty not caused by the household or any guest of the household, or where the NHA performs substantial improvements or alterations to the unit, the lease shall terminate and the NHA will execute a lease with the household for the first available similar unit. Until such a unit is available, the NHA will provide the household with temporary housing at no cost to the family, except that the family will continue to pay the approved TTP. However, if the fire or casualty loss is not caused by faulty NHA equipment or NHA failure to act, it will be considered to be caused by the tenant or any guests of the tenant and NHA will not provide temporary housing during the repair period.*

*If the premises are made uninhabitable by fire or other casualty caused by the negligent or deliberate act of the household or of any guest of the household and the household requests in writing authorization to re-occupy the premises upon completion of the renovation, the household may be allowed to enter into a Repayment Agreement for the amount of the loss.*

*If the household declares no interest in further occupancy or refuses to pay the deductible, the NHA will add the deductible cost to the lease account and then will proceed with termination of the lease.*

- The family must allow the NHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.
- The family must notify the NHA before moving out of the unit.

**NHA Policy**

*The family must comply with lease requirements regarding written notice to the NHA.*

- The family must promptly give the NHA a copy of any code violation notice.
- The family must use the unit for residence by the family members or other on the lease. The unit must be the family's only permanent residence.
- The composition of the assisted family residing in the unit must be approved by the NHA. The family must promptly notify the NHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request NHA approval to add any other family member as an occupant of the unit.

**NHA Policy**

*The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The NHA will determine eligibility of the new member in accordance with the policies in Chapter 3.*

- The family must promptly notify the NHA in writing if any family member no longer lives in the unit.
- If the NHA has given approval, a foster child or a live-in aide may reside in the unit. The NHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when NHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 and Chapter 11.
- The family must not sublease the unit, assign the lease, or transfer the unit.

**NHA Policy**

*Subleasing includes receiving payment to cover rent and/or utility costs by a person living in the unit who is not listed on the lease.*

- The family must supply any information requested by the NHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the NHA when the family is absent from the unit.

**NHA Policy**

*Notice is required under this provision only 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. Written notice must be provided to the NHA at the start of the extended absence. Any absence in excess of 180 days is considered to be an abandonment of the premises and creates an automatic termination of the lease [See Chapter 6.D].*

- The family must pay utility bills and provide and maintain any appliances that the NHA is not required to provide under the lease.
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. (See Chapter 12 for HUD and NHA policies related to drug-related and violent criminal activity).
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. (See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse).
- Operating a home-based business must meet the City of Norwalk zoning and other applicable codes and must be approved by the NHA in writing.
- An assisted family or member of the family must not receive another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- All family members (except those who are exempt) must perform 8 hours of community service per month.

### **SMOKE-FREE HOUSING POLICY**

To promote better air quality and safety of residents in its housing programs, NHA has declared all its residential properties as smoke free.

Smoking is only permitted twenty (20) feet from any building located on NHA properties and is not permitted anywhere inside properties owned by NHA to include but not limited to resident dwellings, common areas, hallways, maintenance buildings and NHA office. This policy applies to all residents, guests, and employees, contractors, and business invitees who provide services to NHA properties.

All NHA residents are required to sign a copy of the smoke free policy to be placed in the resident's file.

### **SMOKE FREE POLICY ENFORCEMENT**

Violation of this policy is a material breach of the resident's lease. In circumstances where smoking is observed and/or reported, NHA will seek the specific source of the tobacco or other smoke and take appropriate action consistent with the enforcement of this policy.

#### **[NHA Policy](#)**

*See Appendix C, Community Service Policy*

### **5.C. REFERRAL TO THE ASSIGNED SITE AND UNIT**

#### **[NHA Policy](#)**

*After the briefing and the family has supplied all information requested by the agency and the family is determined to be qualified it is added to the 'Ready Pool'. Then when a unit has become available the NHA will continue the admission process.*

*If an Offer is rejected by the family other than for 'reasonable accommodation' reasons, the admission process is terminated and the family is removed from the waiting list and will be prohibited for a period of 5 years to re-apply for admission to any waiting lists of the NHA for any and all programs and also will be denied admission to housing.*

*The family being admitted is given 5 days to make contact with the Admissions Specialist to complete the leasing and move-in process.*

*Generally the following will happen:*

- *The unit or similar unit will be shown to the resident.*

- *When the family inspects the assigned unit, it will sign the move-in inspection form (which may include a punch list) that it has viewed the unit and has found it satisfactory.*
- *An appointment is made for the family to sign the lease, receive the keys and move in.*
- *Prior to move-in, the family is given an individual orientation to the unit and development and the local site procedures.*

*If the unit is rejected by the family other than for 'reasonable accommodation' reasons or because the unit is uninhabitable, the application process is terminated and the family is removed from the waiting list and will be prohibited for a period of 5 years to re-apply for admission to any waiting lists of the NHA for any and all programs and also will be denied admission to housing.*

## **CHAPTER 6: INCOME AND TOTAL TENANT PAYMENT DETERMINATIONS**

Accurate calculation of Annual Income is necessary to assure that families are within the eligibility income limits for the program *and* are not paying more or less money for rent and utilities than their obligation under the program regulations (see 24 CFR Parts 5 and 982). Section 5.609 provides a detailed explanation of what is included in Annual Income and what is excluded. Additional exclusions are contained in various HUD Notices. The regulations and Notices do not provide explicit guidance on how to "make all of the required determinations and allow PHAs discretion to define certain terms and develop standards. This Chapter addresses those areas where PHAs have such discretion.

### **6.A. CHOICE OF RENT FOR LRPB PROGRAM**

Note: The NHA provides a choice between income based rents or flat rents for its LRPB programs.

At admission an applicant is permitted to make a choice between an income-based rent or a flat rent. An income-based rent is based on the family's adjusted income and must not exceed the TTP (See II. below) minus any applicable utility allowance for tenant paid utilities.

A flat rent is in a schedule developed by the NHA and does not include any utility reimbursement. It must be at least the minimum rent of \$50 established by the NHA.

At any time the family may switch from flat rent to income based rent in the case of financial hardship, as verified by the NHA Occupancy Specialist. [See Chapter 10.C for additional information]. In addition at the time of lease renewal (each year) the family may choose to switch their choice of rent payment. As noted in Chapter 11, the family's income is recertified each year for income-based renters and once every three years for flat renters. But family composition is re-certified annually or when there is a change.

*NOTE: Tenants choosing the flat rent option and being recertified less than annually are generally exempt from interim income reporting requirements listed below, as changes in income will not affect the flat rent payment amount.*

### **6.B. TOTAL TENANT PAYMENT**

Total Tenant Payment (TTP) (see 24 CFR 5.628) is the term describing the minimum amount a tenant must pay towards the gross rent for the unit the family is occupying. Gross rent consists of the Lease Rent - the rent the NHA is entitled to get under the lease and the amount of the established utility allowance for tenant-paid utilities (for income-based rent choosers only). TTP is the higher of: 10 % of monthly income, 30 % of monthly adjusted income, welfare rent, or PHA minimum rent.

### **6.C. MINIMUM RENT**

The regulations permit a PHA to establish a minimum rent of up to \$50. The NHA has determined that its minimum rent for the LRPB and Project Based Section 8 programs will be \$50. The term minimum rent includes the combined amount a family is required to pay towards rent and utilities, if tenant-paid.

### **6.D. HOUSEHOLD COMPOSITION AND INCOME**

#### **Overview**

This section in the plan discusses household composition only as it relates to income calculations. Additional information on household composition as it relates to eligibility is found in Chapter 3 of the plan.

See Appendix L for more information on adjusting income for households.

#### **Temporarily Absent Family Members**

HUD rules require the NHA to count family members approved to live in a unit, even if a family member

is temporarily absent from the unit.

**NHA Policy**

*An individual who is or is expected to be absent from the unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. An individual who is or is expected to be absent from the unit for more than 180 consecutive days is considered permanently absent and no longer a family member.*

*If no members of the family are left in residence, lease termination is initiated.*

*Exceptions to this general policy are discussed below.*

***Absent Students***

HUD does not specifically address students who are absent from a household. Although this issue would also apply to students under 18 years who are living away from the family, the major focus of this policy is to deal with students 18 and above who may or may not still be family members.

**NHA 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 NHA indicating that the student has established a separate household or the family declares that the student has established a separate household.*

***Absences Due to Placement in Foster Care***

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

**NHA Policy**

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

***Absent Head, Spouse, or Co-head***

**NHA Policy**

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

***Family Members Permanently Confined for Medical Reasons***

HUD specifies that a family member permanently confined to a nursing home or hospital is no longer considered a family member. The model plan includes this safe harbor language and elaborates on this guidance by (1) establishing how the PHA will determine if the family member is permanently absent and (2) clarifying that if the permanently absent member is the only person who qualifies the family for the medical expense deduction, the family is no longer eligible for the medical expense deduction.

**NHA Policy**

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

*When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualifies as an elderly person or a person with disabilities.*

### **Joint Custody of Dependents**

When a joint custody agreement causes a child to live in more than one location, the PHA must determine whether the child is a member of an assisted family.

#### **NHA 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 tenant family 50 percent or more of the time.*

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

### **Caretakers for a Child**

This policy is intended to address those relatively rare and temporary circumstances in which children remain in a unit without a parent or designated guardian. This might happen in the case of the death of the parent. In such circumstances, the care arrangements for the child may be formal or informal.

#### **NHA Policy**

*If neither a parent nor a designated guardian remains in a household the NHA will take the following actions.*

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

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

*(3) At any time that custody or guardianship legally has been awarded to a caretaker, the head of household on the lease will be transferred to the caretaker, subject to admission screening.*

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

### **6.E. ANTICIPATING ANNUAL INCOME**

The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)].

#### **Basis of Annual Income Projection**

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. However, under certain conditions, HUD authorizes the PHA to use other than current circumstances to anticipate income.

#### **NHA Policy**

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

*not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the NHA to show why the historic pattern does not represent the family's anticipated income.*

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

*The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the NHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the NHA's policy in Chapter 11 does not require interim reexaminations for other types of changes.*

*Social Security recipients receive a letter in December, notifying them of changes to their SS benefits for the ensuing year. This letter shall be used as well, for anticipated income. [See Chapter 7.P].*

### **Using Electronic Income Verification (EIV) to Project Income**

In its verification guidance, HUD lists up-front income verification (EIV) as the highest method of income verification. It further states: "Whenever HUD makes available wage, unemployment and SSA information, the PHA should use the information as part of the reexamination process." The plan follows this recommendation, adopting as PHA policy guidance issued by HUD in using EIV in conjunction with family-provided documents to anticipate annual income.

#### **NHA Policy**

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

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

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

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

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

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

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

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

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

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

*Note that EIV for Project Based Section 8 is a separate process than that for LRPH unless otherwise permitted by HUD to combine both processes.*

**6.F. EARNED INCOME [24 CFR 5.609(b) and (c)]**

This section of the plan lists types of **earned** income and specifies whether they are included in or excluded from annual income. In general the following chart explains what is included.

	<b>Employment Income</b>	<b>Other Income (including income from assets)</b>
<b>Members</b>		
Head	Yes	Yes
Spouse	Yes	Yes
Co-head	Yes	Yes
Other adult	Yes	Yes
Dependents		
-Child under 18	No	Yes
Full-time student over 18	See Note	Yes
<b>Nonmembers</b>		
Foster child	No	No
Foster adult	No	No
Live-in aide	No	No

**NOTES:**

1. The earned income of a full-time student 18 years old or older who is a dependent, is excluded to the extent that it exceeds \$480. When full-time students who are 18 years of age or older are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family or spouse or co-head. If the income is less than \$480 annually, count all the income. If the annual income exceeds \$480, count \$480 and exclude the amount that exceeds \$480. The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors. But all income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
  2. Payments received by the family for the care of foster children or foster adults are *not* counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.
  3. Adoption assistance payments in excess of \$480 are not counted.
- For a full listing of income, exclusions and asset calculations, see Appendix K.

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

The regulation at 24 CFR 5.609(b)(1) requires the PHA to include in annual income all forms of “compensation for personal services.” While some forms, like regular wages and salaries, may be fairly easy to anticipate, other forms, like bonuses and commissions, may vary considerably from one pay period to the next.

***NHA Policy***

*For persons who regularly receive bonuses or commissions, the NHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the NHA will use the prior year amounts. In either case the family may provide, and the NHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the NHA will count only the amount estimated by the employer.*

***State and Local Employment Training Programs [24 CFR 5.609(c)(8)(v)]***

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

***NHA Policy***

*The NHA 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 should 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.*

*The NHA 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.*

*In calculating the incremental difference, the NHA 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 NHA's interim reporting requirements.*

***HUD-Funded Training Programs [24 CFR 5.609(c)(8)(i)]***

For consistency, the model plan recommends using the same definition of *training program* for HUD-funded training programs as for state and local employment training programs.

***NHA Policy***

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

**6.G. EARNED INCOME DISALLOWANCE [24 CFR 5.609 and 5.617]**

**Eligibility**

No PHA policy decisions are required.

***NHA Policy***

*The following EID section is applicable only to Colonial Village*

**Calculation of the Disallowance**

The EID regulations require the PHA to compare the current income of a family member who is eligible for the EID with the "prior income" of that family member and exclude all or part of the difference that is "a result of employment" [24 CFR 5.617(c)(1) and (2)]. To ensure consistency, the PHA must clarify the meaning of *prior income*.

***NHA Policy***

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

***Initial 12-Month Exclusion***

The EID regulations state that the initial 12-month exclusion period begins “on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment” [24 CFR 5.617(c)(1)]. However, in frequently asked questions on the EID, HUD has stated that, for tracking and administrative purposes, a PHA may begin the EID on the first day of the month following new employment or an increase in earnings.

*NHA Policy*

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

**Second 12-Month Exclusion and Phase-In**

No PHA policy decisions are required.

**Lifetime Limitation**

Because the end of a family member’s eligibility for the full or partial EID may not coincide with the family’s annual reexamination cycle, the PHA must decide whether to impose special interim reporting requirements related to the EID. Even though general re-examination requirements are covered in Chapter 11, the plan also addresses this issue in the EID section.

*NHA Policy*

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

**6.H. BUSINESS INCOME [24 CFR 5.609(b)(2)]**

24 CFR 5.609(b)(2) indicates that net income from a business or profession must be included in annual income.. PHA policies are required in the following areas:

- Definitions for calculating business income
- Treatment of negative net income
- Withdrawals from a business
- Co-owned businesses

**Definitions for Calculating Business Income**

HUD uses several financial terms in the regulation but does not define them.

**Business Expenses**

Calculation of net income requires that business expenses be deducted, but the regulation provides no list of allowable business expenses.

*NHA Policy*

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

**Business Expansion**

HUD rules specify that the cost of business expansion may not be used to determine net income from a business but does not define *business expansion*.

### **NHA Policy**

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

### **Capital Indebtedness**

HUD rules specify that amortization of capital indebtedness cannot be counted as a business expense for the purpose of determining net income. The language included in the model plan explains what this means and clarifies how capital indebtedness is handled in rent calculations.

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

### **Negative Business Income**

The plan borrows language from HUD Handbook 4350.3 [p. 5-10] to clarify that no income will be counted if business income is negative and that losses cannot offset other income.

### **Withdrawal of Cash or Assets from a Business**

The regulation requires the PHA to include in annual income the value of cash or assets withdrawn from a business unless the withdrawal reimburses a family member for investments the family has made in the business. However, it gives no guidance about what constitutes an investment that may be reimbursed.

### **NHA 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 NHA 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**

The regulation and HUD guidance do not provide information about how to treat a business that is co-owned by someone who is not a member of the family.

### **NHA Policy**

*If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.*

## **6.I. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]**

### **Overview**

There is no asset limitation for participation in the LRPB and Project Based Section 8 programs. However, HUD requires that the PHA include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section provides guidance on how different types of assets are valued and how income from these assets is established.

The section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset. Each type of asset covered in the plan is identified below. Only

those that require a PHA policy are discussed.

A more detailed listing of HUD's Asset policies are set out in Attachment 16.

## **General Policies**

### ***Income from Assets***

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The plan provides a policy clarifying how the PHA will deal with situations in which something other than current circumstances is used to determine income from an asset.

#### **NHA Policy**

*Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the NHA to show why the asset income determination does not represent the family's anticipated asset income.*

### ***Valuing Assets***

No PHA policy decisions are required but see and follow HUD regulation.

### ***Lump-Sum Receipts***

No PHA policy decisions are required but see and follow HUD regulation

### ***Imputing Income from Assets***

No PHA policy decisions are required but see and follow HUD regulation.

### ***Determining Actual Anticipated Income from Assets***

No PHA policy decisions are required but see and follow HUD regulation.

### ***Withdrawal of Cash or Liquidation of Investments***

No PHA policy decisions are required but see and follow HUD regulation.

### ***Jointly Owned Assets***

#### **NHA Policy**

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

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

### ***Assets Disposed Of for Less than Fair Market Value***

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below. HUD permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted.

#### **NHA Policy**

*The NHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$5,000.*

*When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual re-certifications, the family may request an interim recertification to eliminate consideration of the asset(s).*

*Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.*

#### *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. The regulation does not specify what important consideration might be.

#### *NHA 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*

No PHA policy decisions are required. but see and follow HUD regulation.

#### *Family Declaration*

#### *NHA Policy*

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

### **Types of Assets**

#### ***Checking and Savings Accounts***

The PHA must count amounts in a family’s savings and checking accounts as assets. The plan establishes how the value of these assets will be determined and how the anticipated income from these assets will be calculated.

#### *NHA Policy*

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

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

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

#### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds***

When family assets are held in investment accounts, calculating asset value and anticipated income can be difficult because of fluctuations in value and rates of return. The plan provides a clarification of HUD policy related both to how assets are valued and how income is determined.

#### *NHA Policy*

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

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

*(e.g., stocks), the NHA will calculate asset income based on the earnings for the most recent reporting period.*

### **Equity in Real Property or Other Capital Investments**

Equity is the estimated current market value of an asset (such as a house) less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

The plan lists types of property and capital investment that are not counted and explains how assets and income are determined for two types of capital investment: (1) family ownership of a mortgage or deed of trust and (2) joint ownership of real property with someone outside the family unit.

#### **NHA Policy**

*In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.*

### **Trusts**

No PHA policy decisions are required but see and follow HUD regulation.

### **Retirement Accounts**

No PHA policy decisions are required but see and follow HUD regulation.

### **Personal Property**

HUD rules exclude from assets necessary items of personal property such as furniture and automobiles [24 CFR 5.603(b)]. However, they do not exclude personal property held as an investment. The plan establishes how the PHA will value personal property held as an investment and what items of personal property it will consider necessary.

#### **NHA Policy**

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

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

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

### **Life Insurance**

No PHA policy decisions are required but see and follow HUD regulation.

HUD regulations specifically exclude from annual income a few forms of periodic payments. All other forms must be included. The model plan lists the main categories that are included as well as the specific types that are excluded. It also addresses the treatment of lump-sum amounts that represent the delayed start of a periodic payment.

### **Periodic Payments Included in Annual Income**

No PHA policy decisions are required but see and follow HUD regulation.

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment**

HUD requires that PHAs include in annual income most lump sums and prospective amounts that are received as the result of delays in the processing of ongoing forms of periodic income. However, the regulation specifically exempts deferred social security and SSI lump-sum payments from this requirement. Deferred lump-sum payments from these sources are **not** counted as income whether they are paid in a single lump sum or in prospective monthly amounts [24 CFR 5.609(c)(14)].

There are three issues the PHA must address related to lump sums received as a result of the delayed start of a periodic payment:

- When must the family report receipt of the payments?
- When the lump sum is reported, will the PHA make a retroactive adjustment of the family's share or include the amount in prospective rent calculations?
- If the family owes the PHA as a result of a retroactive calculation, under what circumstances will the PHA offer a repayment agreement?

#### **NHA Policy**

*When a delayed-start payment is received and reported during the period in which the NHA is processing an annual reexamination, the NHA will adjust the family share and NHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the NHA.*

*See Chapter 11 for information about a family's obligation to report lump-sum receipts between annual reexaminations.*

*See Chapter 13 for policies related to repayment agreements.*

### **Periodic Payments Excluded from Annual Income**

No PHA policy decisions are required but see and follow HUD regulation.

### **6.J. PAYMENTS IN LIEU OF EARNINGS**

No PHA policy decisions are required but see and follow HUD regulation.

#### **Regular Contributions or Gifts**

The PHA must count as income regular monetary and non-monetary contributions or gifts from someone outside the family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

#### **NHA Policy See Attachment 2 Procedures for Claimed Income of less than \$3,000 including Zero Income**

*Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.*

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

### **6.K. WELFARE ASSISTANCE**

The plan identifies welfare assistance as a type of income that must be counted. It also summarizes the rules for counting welfare income when a sanction has been imposed by a welfare agency for noncompliance with certain requirements.

- The regulation at 24 CFR 5.609(b)(6)(ii) gives special rules for counting welfare assistance in "as-paid" welfare localities. Since Norwalk is not an "as-paid" locality the plan does not include these special rules.

## **6.L. ALIMONY AND CHILD SUPPORT**

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement *unless* the PHA verifies that the payments are not being made. The PHA must determine what documentation is required to show that the family receives less than the court-ordered amount.

### **NHA Policy**

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

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

## **6.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

No PHA policy decisions are required but see and follow HUD regulations which are set out in more detail in Appendix K.

**Note:** In calculating annual income for a family, the low-income subsidy to assist low-income persons in paying for their Medicare prescription drug plan costs must be excluded as annual income for the purpose of calculating any rent or assistance.

## **6.N. DEDUCTIONS OVERVIEW**

There are five mandatory deductions from annual income provided for in the regulations at 24 CFR 5.611. These deductions include:

- \$480 for each dependent
- \$400 for any elderly family or disabled family
- Unreimbursed medical expenses
- Unreimbursed disability assistance expenses that enable a family member to work
- Reasonable child care expenses that enable a family member to seek work, be employed, or pursue his or her education

### **Anticipating Expenses**

In the same way that the PHA must anticipate income for the coming year, it must also anticipate family circumstances to determine the deductions for which a family qualifies.

### **NHA Policy**

*Generally, the NHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non school periods and cyclical medical expenses), the NHA 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 NHA 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 NHA may require the family to provide documentation of payments made in the preceding year.*

## **6.O. DEPENDENT DEDUCTION**

No PHA policy decisions are required but see and follow HUD regulation, especially as it relates to Student deductions.

**Note:** The student deduction for State of Connecticut programs is \$750

## **6.P. ELDERLY OR DISABLED FAMILY DEDUCTION**

No PHA policy decisions are required but see and follow HUD regulation.

## **6.Q. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]**

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income. PHA policies are required in two areas related to medical expenses:

- Definition of *medical expenses*
- Classifying medical and disability expenses when either could apply

### **Definition of *Medical Expenses***

HUD recommends that PHAs use IRS Publication 502, *Medical and Dental Expenses*, as the standard for defining what qualifies as a medical expense but requires PHAs to develop their own policies addressing this issue.

Note however, that the amount of unreimbursed out-of-pocket expenses for prescription drugs, must be treated as a standard medical deduction when determining the family's medical expenses deduction. Persons with a Medicare prescription drug plan may be required to pay a premium up to \$37 and this premium will be counted as a medical deduction. However, many of those receiving the low-income subsidy will not be required to pay a premium. Not all prescription drugs are covered under the Medicare prescription drug plans; therefore, a person may be paying full price for some prescription drugs and a reduced amount for other prescription drugs. The standard medical deduction as described at 24 CFR 5.609(c)(4) 5.611(a)(3) continues to be the sum of allowable medical expenses that exceed 3% of annual income.

### **NHA Policy**

*The most current IRS Publication 502, Medical and Dental Expenses, will be used to determine the costs that qualify as medical expenses and provides a chart that summarizes the expenses.*

### **Families Which Qualify for Both Medical and Disability Assistance Expenses**

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The PHA must clarify for staff how these expenses will be handled.

### **NHA 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 medical or disability assistance expenses, the NHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.*

## **6.R. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 5.611(a)(3)(ii)]**

Unreimbursed disability assistance expenses may be deducted to the extent that the sum of those expenses and any medical expenses for which a family is eligible exceed three percent of annual income. HUD recommends that PHAs further define and describe eligible auxiliary apparatus. The plan elaborates on the following topics:

- Implementing the earned income limit, including determining which family is enabled to work
- Defining eligible, necessary, and reasonable disability expenses
- Classifying medical and disability expenses

### **Earned Income Limit on the Disability Assistance Expense Deduction**

When more than one family member is enabled to work, the PHA must establish whose earned income to count when determining the cap on disability expenses. The earned income used to limit the deduction is earned income before any exclusions or disallowances are taken (column 7d of form HUD-50058).

### **NHA 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 NHA 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 NHA 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.*

### **Eligible Disability Expenses**

#### ***Eligible Auxiliary Apparatus***

Although HUD provides examples of auxiliary apparatus, some additional explanation is recommended.

### **NHA Policy**

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

### ***Eligible Attendant Care***

When a family includes a person with disabilities, the family determines the type of attendant care, if any, that is appropriate for the person. HUD has not provided detailed guidance on the types of attendant care that are eligible for deduction. To ensure consistency, the PHA should elaborate on what this care includes.

### **NHA Policy**

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

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

*If the care attendant also provides other services to the family, the NHA 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 policy decisions required but see and follow HUD regulation.

### **Necessary and Reasonable Expenses**

The regulation requires disability assistance expenses to be "necessary" and "reasonable," but HUD provides no further definition of these terms. It is not appropriate for PHA staff to determine the medical or care needs of a person with disabilities. Therefore the person's family, not the PHA, must determine the type of attendant care or auxiliary apparatus that is necessary. However, the PHA must still determine whether the cost of the disability assistance is reasonable.

**NHA Policy**

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

**Families Which Qualify for Both Medical and Disability Assistance Expenses**

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The PHA must clarify for staff how these expenses will be handled.

**NHA 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 medical or disability assistance expenses, the NHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.*

**6.S. CHILD CARE EXPENSE DEDUCTION**

HUD provides a definition of *child care expenses* in the regulations at 24 CFR 5.603(b), and additional guidance is found in HUD's verification guidance. The PHA must clarify implementation issues including:

- How the family qualifies for each eligible activity
- How the earned income limit on child care that enables a family member to work is administered
- What child care expenses are eligible, reasonable, and necessary

**Qualifying for the Deduction**

***Determining Who Is Enabled to Pursue an Eligible Activity***

Reasonable child care expenses that enable a family member to be gainfully employed, to seek work, or to pursue his or her education can be deducted from annual income.

HUD leaves to the PHA the determination of who is enabled to work, seek employment, or further his or her education. When this section uses the term *eligible activity*, it means one or more of these three purposes.

**NHA Policy**

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

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

The plan clarifies how the PHA will determine whether the family qualifies based upon the type of eligible activity.

**NHA Policy**

*If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the NHA.*

### **Furthering Education**

The PHA must define the types of educational activities that would qualify a family for child care based upon furthering education.

#### **NHA Policy**

*If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.*

### **Being Gainfully Employed**

The PHA must determine whether a family qualifies for the child care expense deduction because a family member is gainfully employed.

#### **NHA Policy**

*If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.*

### **Earned Income Limit on Child Care Expense Deduction**

When more than one family member may be enabled to work, the PHA must determine whose earned income to count when determining the cap on child care expenses. The earned income used to limit the deduction is earned income after any disallowances or exclusions are applied (column 7f of form HUD-50058).

#### **NHA Policy**

*When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the NHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.*

### **Eligible Child Care Expenses**

HUD permits each assisted family to determine the type of child care to be provided. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

To ensure consistency, the PHA specifies:

- What activities are included under the definition of *child care*
- How the PHA will determine whether child care expenses are necessary and reasonable

### **Allowable Child Care Activities**

#### **NHA Policy**

*For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.*

*The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.*

*If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the NHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or*

*older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.*

### ***Necessary and Reasonable Costs***

HUD regulations require child care expenses to be “necessary” and “reasonable,” but HUD provides no further definition of these terms. It is not appropriate for PHA staff to determine the child care needs of individual children. Therefore the family, not the PHA, must determine the type of child care that is necessary. However, PHA staff must still evaluate whether the timing and duration of the child care are consistent with the eligible activities and whether the costs are reasonable for the type of care being provided.

### **NHA Policy**

*Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.*

*To establish the reasonableness of claimed child care costs, the NHA will use the results of an annual survey of licensed and unlicensed providers and also examine any schedules of child care costs from other agencies. Families may present and the NHA will consider, justification for costs which exceed the approved schedule of day care allowances.*

## **6.T. RENT CALCULATIONS**

This presents the regulatory formula for calculating total tenant payment (TTP). The application of utility allowances are covered separately above.

Only three policy decisions must be made by the PHA:

- (1) The PHA must specify whether any part of its jurisdiction is an “as-paid” welfare locality.
- (2) The PHA must establish a minimum rent from \$0 to \$50.
- (3) The PHA must determine to whom utility reimbursement payments will be made.

Each of these decisions is discussed below.

### **TTP Formula [24 CFR 5.628]**

A family’s total tenant payment (TTP) is the greatest of:

- 30 percent of the family’s monthly adjusted income
- 10 percent of the family’s monthly gross income
- The welfare rent (in as-paid jurisdictions only)
- The minimum rent (established by the PHA)

### ***Welfare Rent [24 CFR 5.628]***

The third item considered when determining TTP is the welfare rent, which is defined at 24 CFR 5.628(a)(3) as follows: “If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family’s actual housing costs, is specifically designated by such agency to meet the family’s housing costs, the portion of those payments which is so designated [is considered the welfare rent].”

24 CFR 5.628 requires the PHA to enter a welfare rent as part of the TTP formula when welfare assistance in the jurisdiction is provided “as paid.” *As paid* refers to a system in which a separate amount within a family’s welfare grant is specifically designated for shelter and utilities and is adjusted based upon the family’s actual housing costs.

[NHA Policy](#)

*Welfare rent does not apply in this locality.*

**Minimum Rent [24 CFR 5.630]**

HUD requires the PHA to establish a minimum rent that may be from \$0 to \$50. Minimum rent applies only when the PHA-established minimum rent is the highest amount in the TTP calculation. HUD regulations provide for hardship exemptions from minimum rent. See below for a discussion of hardship policies.

[NHA Policy](#)

*The minimum rent established for the Norwalk Housing Authority is \$50.*

**Utility Reimbursement [24 CFR 982.514(b)]**

When the PHA subsidy exceeds a family's rent to owner, the family is due a utility reimbursement. HUD permits the PHA to make the utility payment to the family or directly to the utility provider.

[NHA Policy](#)

*The NHA will make utility reimbursements to the program tenant.*

**6.U. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

**Overview**

The financial hardship exemption applies only to the payment of the minimum rent and not to a family's inability to pay based upon other elements of the TTP formula. HUD identifies four types of hardship in the regulations and permits the PHA to add other hardship criteria.

When a family requests a financial hardship exemption, the steps required by the regulations depend on whether the PHA determines that the request is valid and whether the hardship will be temporary or long-term. HUD's requirements and PHA decision points are described below.

**HUD-Defined Financial Hardship**

HUD-defined hardships specified in 24 CFR 5.630(b) include:

- (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 non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

[NHA Policy](#)

*A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.*

*For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.*

- (2) The family would be evicted because it is unable to pay the minimum rent.

[NHA Policy](#)

*For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.*

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

No PHA policy decisions are required but see and follow HUD regulation.

- (4) A death has occurred in the family.

### [NHA Policy](#)

*In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).*

- (5) The family has experienced other circumstances determined by the PHA.  
The PHA is permitted to establish additional hardship criteria.

### [NHA Policy](#)

*The NHA has not established any additional hardship criteria.*

## **Implementation of Hardship Exemption**

### ***Determination of Hardship***

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request. When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The family's share is not automatically reduced to zero in hardship cases.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

The regulation is silent on submission requirements and only requires that the PHA make its determination "promptly" [24 CFR 5.630(b)(2)(ii)(B)]. The plan specifies family submission requirements and requires the PHA to make a decision within 30 days of the family's request.

### [NHA 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 NHA will make the determination of hardship within 30 calendar days.*

### ***No Financial Hardship***

The regulation requires that if there is no financial hardship, the PHA must reinstate the minimum rent and require the family to repay the amounts suspended on terms and conditions set by the PHA [24 CFR 5.630(b)(2)(iii)(A)].

### [NHA Policy](#)

*The NHA will require the family to repay the suspended amount within 30 calendar days of the NHA'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. The plan permits the PHA and the family to agree on a repayment schedule in accordance with the PHA's policy.

### [NHA Policy](#)

*The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 13 of this plan.*

### ***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. Repayment of the

minimum rent for the period of the long-term hardship is not required.

The plan specifies when the hardship ends. The policy addresses hardships based upon loss of income and hardship-related expenses.

**NHA 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.V. APPLYING UTILITY ALLOWANCES**

**This does not apply to 'Flat Rent' tenants**

The Utility Allowance is intended to help defray the costs of utilities not included in the rent and is subtracted from Total Tenant Payment to establish the family's rent to the agency for income based rental calculations. The allowances are based on actual rates and average consumption studies, not on a family's actual consumption. The Utility Allowance applicable to a family is based on the actual unit size selected.

Where families provide their own range and refrigerator, the NHA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over a 12-month period.

**Reasonable Accommodation**

The Utility Reimbursement is the portion of the rent which exceeds the amount of the rent to the NHA. The NHA has elected not to pay the Utility Reimbursement to the utility supplier. It is NHA policy that the Utility Reimbursement will be paid by monthly check or direct deposit payment directly to the family. Generally, the NHA will require a family member to pick up the Utility Reimbursement check in person. Where special circumstances exist, or as a reasonable accommodation, the NHA will mail the check to the family.

**Utility Allowance Revisions**

At admission, interim and annual reexamination, the PHA must use the PHA current utility allowance schedule. Also See Chapter 16.

**NHA Policy**

*Revised utility allowances will be applied to a family's rent calculations at admission and at the annual reexamination which is effective after the allowance is adopted.*

*For a family which moves to Flat Rents, all utility allowances will be discontinued when the flat rent becomes effective.*

**6.W. PRORATED ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]**

No PHA policy decisions are required.

## **CHAPTER 7: VERIFICATION**

### **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 the family's consent to collect the information. Applicants and program tenants 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 will follow the administrative guidance and any subsequent guidance issued by HUD related to the mandated use of HUD's Enterprise Income Verification (EIV) system as per PIH Notice 2010-19. This chapter summarizes the requirements and provides supplementary PHA policies

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 of the PHA.

### **7.A. FAMILY CONSENT TO RELEASE OF INFORMATION [CFR 5.230]**

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.

#### **Consent Forms**

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the 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). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of tenants. The family may request an informal review (applicants) or informal hearing (tenants) in accordance with PHA procedures.

#### **HUD's Verification Hierarchy**

HUD authorizes the PHA to use five 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. In order of priority, the forms of verification that may be used are:

- Electronic (EIV) or Up-front Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system
- Up-Front Income Verification (UIV), using non-HUD systems
- Third-party Written Verification
- Third- party Written Verification Form
- Third-party Oral Verification
- Self-Certification/Tenant Declaration

Each of the verification methods is discussed in subsequent sections below [PIH Notice 2010-19].

### **Requirements for Acceptable Documents**

#### **NHA Policy**

*Any documents used for verification must be the original (not photocopies), must be the most current and generally must be dated within 120 calendar days (for new applicants being processed into the ready pool) and 60 calendar days (for recertifying residents) of the date they are provided to the NHA. The documents must not be damaged, altered or in any way illegible. Faxes and print-outs from web pages are considered original documents.*

*The NHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy, which is retained by the NHA.*

*Any family self-certifications must be made in a format acceptable to the NHA and must be signed in the presence of a NHA representative or NHA notary public.*

### **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 plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### **7.B. UP-FRONT INCOME VERIFICATION (UIV) OR ELECTRONIC VERIFICATION (EIV)**

#### **(Level 6/5)**

EIV or 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. EIV/UIV will be used to the extent that these systems are available to the PHA.

The PHA must restrict access to and safeguard EIV/UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

#### **NHA Policy**

*[See Appendix B "EIV Security Procedures"]*

There may be legitimate differences between the information provided by the family and EIV/UIV-generated information. No adverse action can be taken against a family until the PHA has independently verified the EIV/UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

### **Definition of Substantial Difference**

EIV/UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV/UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], HUD recommends using \$200 per month as the threshold for a substantial difference.

#### **NHA POLICY**

*The NHA will use \$200/month as the threshold for substantial difference.*

See Chapter 6 for the PHA's policy on the use of EIV/UIV to project annual income and for the PHA's threshold for substantial difference.

#### **When No Substantial Difference Exists**

If EIV/UIV information does not differ substantially from family information, the EIV/UIV documentation may serve as third-party written verification.

#### **When a Substantial Difference Exists**

When there is a substantial difference between the information provided by the EIV/UIV source and the family, the PHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

### **7.C. THIRD-PARTY WRITTEN AND ORAL VERIFICATION (level 4)**

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is standardized form used to collect information from a third-party.

#### **NHA Policy**

*The NHA will diligently seek third-party verification using a combination of written and oral requests of verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.*

*The NHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The NHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11<sup>th</sup> business day, the NHA will request third-party oral verification.*

*The NHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, NHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.*

*When any source responds orally to the initial written request for verification the NHA will accept the oral response as oral verification but will also request that the source complete and return any verification forms that were provided.*

*If a third party agrees to confirm in writing the information provided orally, the NHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6<sup>th</sup> business day, the NHA will use any information provided orally in combination with reviewing family-provided documents.*

#### **When Third-Party Information is Late**

When third-party verification has been requested and the timeframes for submission have been exceeded, the PHA will use the information from documents on a provisional basis. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the

deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the PHA's interim reexamination policy.

### **When Third-Party Verification is Not Required**

#### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

#### ***Certain Assets and Expenses***

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The PHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification.

#### ***NHA Policy***

*The NHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$5,000 annually and the family has original documents that support the declared amount.*

#### ***Certain Income, Asset and Expense Sources***

The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification. For example, the PHA will rely upon review of documents when the PHA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

#### ***NHA Policy***

*The NHA also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense and the family has original documents that provide the necessary information.*

*If the family cannot provide original documents, the NHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.*

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

## **7.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION (Level 3/2)**

#### ***NHA Policy***

*The NHA will diligently seek third-party verification using a combination of written and oral requests of verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.*

*The NHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The NHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11<sup>th</sup> business day, the NHA will request third-party oral verification.*

*The NHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, NHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.*

*When any source responds orally to the initial written request for verification the NHA will accept the oral response as oral verification but will also request that the source complete and return any verification forms that were provided.*

*If a third party agrees to confirm in writing the information provided orally, the NHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6<sup>th</sup> business day, the NHA will use any information provided orally in combination with reviewing family-provided documents.*

### **When Third-Party Information is Late**

When third-party verification form has been requested and the timeframes for submission have been exceeded, the PHA will use tenant declaration. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the PHA's interim reexamination policy.

### ***Exceptions to third-party verification requirements***

Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is required to document in the family file the reason(s) why third party verification was not available.

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

### ***Certain Income, Asset and Expense Sources***

The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification. For example, the PHA will rely upon self-certification when the PHA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

#### **NHA Policy**

*If the family cannot provide original documents, the NHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.*

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

**7.E. SELF-CERTIFICATION/TENANT DECLARATION (level 1)**

The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. The PHA must document in the tenant file why third-party was not available.

When information cannot be verified by a third party document or third-party form, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

:

**NHA Policy**

*The NHA may require a family to certify that a family member does not receive a particular type of income or benefit.*

*The self-certification must be made in a format acceptable to the NHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a NHA representative or notary public.*

**7.F. VERIFICATION OF LEGAL IDENTITY**

**NHA Policy**

*The NHA will require families to furnish 1 form of identification with a photo and current address and 2 other forms of verification of legal identity for each household member.*

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
<ul style="list-style-type: none"> <li>• Certificate of birth, naturalization papers</li> <li>• Current, driver's license or Department of Motor Vehicles identification card</li> <li>• U.S. military discharge (DD 214)</li> <li>• U.S. passport/alien registration card</li> <li>• SS/SSI TPQI Card</li> <li>• Employer identification card</li> </ul>	<ul style="list-style-type: none"> <li>• Certificate of birth</li> <li>• Adoption papers</li> <li>• Custody agreement</li> <li>• Health and Human Services ID</li> <li>• School records</li> </ul>

*If a document submitted by a family is illegible or otherwise questionable, more than 2 of these documents may be required.*

*Legal identity will be verified on an as needed basis.*

**7.G. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and PIH Notice 2010-3]**

**NHA Policy**

*NHA will accept the following as evidence of a SSN:*

- a. an original SSN card issued by SSA*
- b. an original SSA-issued document, which contains the name and SSN of the individual, or*
- c. an original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.*

If the family reports an SSN but cannot provide acceptable documentation of the number, the PHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The PHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

**NHA Policy**

*For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the NHA may grant an additional 60 calendar days to provide documentation.*

Social security numbers must be verified only once during continuously-assisted occupancy. If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

**NHA Policy**

*Upon the birth of a child or a legal adoption, the family must provide a SSN for the addition/s within 30 days.*

The social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

**Requirements for Acceptable Documents**

**NHA Policy**

*Any documents used for verification must be the original (not photocopies), must be the most current and generally must be dated within 120 calendar days (for new applicants being processed into the ready pool) and 60 calendar days (for recertifying residents) of the date they are provided to the NHA. The documents must not be damaged, altered or in any way illegible.*

*Faxes and print-outs from web pages are considered original documents.*

*The NHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy, which is retained by the NHA.*

*Any family self-certifications must be made in a format acceptable to the NHA and must be signed in the presence of a NHA representative or any notary public.*

**7.H. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

**NHA Policy**

*If an official record of birth or evidence of social security retirement benefits cannot be provided, the NHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.*

Age must be verified only once during continuously-assisted occupancy.

## **7.I. FAMILY RELATIONSHIPS**

Applicants and program tenants 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.

### **NHA Policy**

*Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.*

### **Marriage**

#### **NHA Policy**

*A marriage certificate generally is required to verify that a couple is married.*

### **Separation or Divorce**

#### **NHA Policy**

*NHA will require the family to document the divorce or separation.*

*A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.*

*A copy of a court-ordered maintenance or other court record is required to document a separation.*

*If no court document is available, documentation from a community-based agency may be accepted.*

### **Absence of Adult Member**

#### **NHA Policy**

*If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill). If no proof can be provided, NHA may accept a notarized statement from the family and may conduct home visits as needed to verify the absence of the adult as reported.*

### **Foster Children and Foster Adults**

#### **NHA Policy**

*Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.*

*Note that an applicant for housing must have the foster person residing in their current unit at the time of admission to the waiting list and/or admission to housing.*

### **Unauthorized Occupants**

#### **NHA Policy**

*If a resident is being adjudicated due to the presence of an unauthorized occupant, proof of other residence of the alleged occupant shall consist of a legal government issued ID with a photo and address and an additional 2 documents evidencing occupancy at another address. See Attachment 3.*

## **7.J. VERIFICATION OF STUDENT STATUS**

A student must be of legal age or an emancipated minor under the state law. The PHA must obtain proof of age such as a valid drivers' license, identification card issued by a federal, state, or local agency, identification issued by a medical insurance company, birth certificate, or other form of identification, as determined by the PHA.

The student must be income eligible for admission to the public housing program.  
The PHA must verify all sources of reported family income.

#### **NHA Policy**

*The NHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:*

- *The family claims full-time student status for an adult other than the head, spouse, or co-head, or*
- *The family claims a child care deduction to enable a family member to further his or her education.*

*Each college student within a household must provide a written/signed certification that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and the amount of support*

*The NHA will verify, via independent third-party verification all amounts anticipated to be received outside of the family during the 12-month period following admission and the effective date of the annual reexamination.*

*The college student must have established a household separate from his/her parents or legal guardians for at least one year prior to applying to public housing, voucher, or certificate programs. The NHA will verify this by obtaining evidence of separate households by reviewing/verifying the address information that predates the student's application by a minimum of one year*

*The college student must not be claimed as a dependent by parent(s) or legal guardian(s) on their Internal Revenue Services (IRS) tax return. This may be verified by requesting a copy of the college student's Form 1040EZ, 1040A, or 1040 tax returns for the prior year by checking the box that asks whether the student's parents (or someone else) can claim him/her on their tax return (See box "5" for Form 1040EZ and box "6a" for Forms 1040A and 1040). The NHA may also, if practicable, review the college student's parents' or guardians' tax return. The college student must supply any information that the NHA or HUD determines is necessary in administration of the public housing program.*

#### **7.K. 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 tenant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities:

- 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
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a

controlled substance

The PHA will attempt to obtain information about disability benefits through the HUD EIV/UIV System when it is available, or HUD's Tenant Assessment Subsystem (TASS). If the HUD EIV/UIV System or TASS is not available, the PHA will attempt to obtain third-party written/oral verification from the SSA. If third-party verification is not available, the family may provide an original SSA document that confirms the current benefits.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

### **Family Members Not Receiving SSA Disability Benefits**

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **7.L. 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. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter 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 non-citizen or an ineligible non-citizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)].

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

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

### ***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 non-citizens 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.

### ***PHA Verification***

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 plan. 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 United States Citizenship and Immigration Services (USCIS). The PHA will follow all USCIS protocols for verification of eligible immigration status.

**NHA Policy**

*The NHA will first use SAVE to verify status. Then, if necessary, it will use EIV. Then, if necessary, it will request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.*

**7.M. VERIFICATION OF PREFERENCE STATUS**

**NHA Policy**

Working Families—*Verification form signed by employer or designated official of company indicating*

- *date applicant started work;*
- *the number of hours per week that the applicant is working;*
  - *if the applicant has been working less than 20 hours per week and the employer has them enrolled or independently they are enrolled in educational, training, or upward mobility programs resulting in a combination of work and training of 20 hours per week or more.*
  - *Non-employed applicants with adult members enrolled in educational, training, or upward mobility programs, shall be considered working families. Verification will consist of copies of official transcripts, or written verification by registrar or other appropriate official of the educational, job training or upward mobility training institution that the adult family members are enrolled.*
  - *20 hours shall be an annual average taking into consideration interruptions due to vacations, semester breaks etc.*

Offer to Work- *Verification form signed by employer or designated official of company indicating*

- *date applicant will start work;*
- *the number of hours per week that the applicant will be working;*

Resident of Norwalk—*Official third party document (e.g., Driver's license with an address, utility deposit or bill, voting registration).*

Ranking Preference — *The ranking preferences are the same as the preferences but given a different value. Therefore the documentation required for ranking is the same as that required for claiming a preference.*

**7.N. EARNED INCOME**

Chapter 6 and Appendix K of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. The following provides PHA policies which supplement the general verification procedures specified above.

**Tips**

**NHA Policy**

*Tip income is included if it is in a family member's W-2 by the employer*

## **7.O. BUSINESS AND SELF EMPLOYMENT INCOME**

### **NHA Policy**

*The primary verification will be the federal and local tax returns of the business and owner.*

*Business owners and self-employed persons will be required to provide:*

*All schedules completed for filing federal and local taxes in the preceding year or*

*An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.*

*If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.*

*The NHA 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 NHA 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 NHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the NHA will require the family to provide documentation of income and expenses for this period and use that information to project income.*

## **7.P. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

### **Social Security/SSI Benefits**

#### **NHA Policy**

*To verify the SS/SSI benefits of applicants, the NHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the NHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant has received the benefit verification letter they will be required to provide it to the NHA. [Also see Chapter 6.E].*

*To verify the SS/SSI benefits of tenants, the NHA will obtain information about social security/SSI benefits through the HUD EIV System or the Web Access Secure System (WASS). If benefit information is not available in HUD systems, the NHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the NHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the tenant has received the benefit verification letter they will be required to provide it to the NHA.*

### **Alimony and Child Care Payments**

#### **NHA Policy**

*The way the NHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments or not.*

*If the family declares that it **receives regular payments**, verification will be sought in the following order.*

*If payments are made through a state or local entity, the NHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the*

*likelihood of future payments. [The Court ordered payment record will also provide cumulative payments].*

*Third-party verification from the person paying the support*

*Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules*

*Copy of the latest check and/or payment stubs*

*Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.*

*If the family declares that it **receives irregular or no payments**, the NHA will secure the Court ordered payment record. In addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:*

*A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts*

*If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.*

*In the absence of other records, the Court record of amounts paid will be used.*

*Note: Families are not required to undertake independent enforcement action.*

## **7.Q. ASSETS AND INCOME FROM ASSETS**

### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation

#### **NHA Policy**

*The NHA will verify the value of assets disposed of only if:*

*The NHA 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.*

## **7.R. NET INCOME FROM RENTAL PROPERTY**

#### **NHA 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 NHA 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.S. RETIREMENT ACCOUNTS**

#### **NHA Policy**

*When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.*

*Before retirement, the NHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.*

*Upon retirement, the NHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.*

*After retirement, the NHA 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.T. INCOME FROM EXCLUDED SOURCES**

A detailed discussion of excluded income is provided in Chapter 6.

The PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

### **NHA Policy**

*The NHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the NHA will report the amount to be excluded as indicated on documents provided by the family.*

## **7.U. ZERO ANNUAL INCOME STATUS**

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

### **NHA Policy**

*The NHA will treat all income claims of less than \$3,000 the same. See Attachment 2 for the procedures in examining incomes of less than \$3,000.*

## **7.V. 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 co-head 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 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 co-head is 62 years of age or older or a person with disabilities.

## **7.W. MEDICAL 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 above.

### **Amount of Expense**

PHAs must verify the amount of unreimbursed out-of-pocket expenses the applicant or tenant will have for prescription drugs, as well as the amount of the premium for their prescription drug plan. Third party verifications must be obtained when possible or the file must be documented why such third party verification was not available. Medicare beneficiaries required to pay a premium have the option to pay the premium directly to the plan provider or have the premium deducted from their social security. Regardless of whom they pay the premium to, the premium is an allowable medical expense. Medicare beneficiaries will receive statements about their prescription drug spending for months in which they have prescription drug spending. If there is no activity in a given month, the plan is not obligated to send an explanation of benefits. Tenants may provide the statements they receive to help verify how much they spend on prescription drugs. *Attachment 4*, Medicare Part D Coverage and Assistance Chart, may assist in determining when deductibles, co-pays and premiums apply.

#### *NHA Policy*

*Medical expenses will be verified through:*

- *Third-party verification form signed by the provider, when possible*
- *If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or statements or receipts from the provider will be used. In this case the NHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The NHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.*
- *If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months*

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

#### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. 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 this Chapter.

#### **Qualified Expenses**

To be eligible for the medical expenses 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 medical expenses deduction, the costs must not be reimbursed by another source.

#### *NHA Policy*

*The family may be required to certify that the medical expenses are not paid or reimbursed to the family from any source. The NHA will provide a certification form to be completed by the family.*

#### **Expenses Incurred in Past Years**

#### *NHA Policy*

*When anticipated costs are related to on-going payment of medical bills incurred in past years, the NHA 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.X. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described above.

### **Amount of Expense**

#### ***Attendant Care***

##### **NHA Policy**

*Expenses for attendant care will be verified through:*

*Third-party verification by the provider, when possible*

*If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source*

*If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months*

#### ***Auxiliary Apparatus***

##### **NHA Policy**

*Expenses for auxiliary apparatus will be verified through:*

*Third-party verification of anticipated purchase costs of auxiliary apparatus*

*If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months*

*If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months*

In addition, the 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 above).

### **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.

##### **NHA Policy**

*The NHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See Chapter 6).*

*If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.*

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

#### **NHA 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.Y. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described above. In addition, the PHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

### **Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13.

### **Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

#### **NHA Policy**

*The child care provider will be required to certify the amount of child care being paid by the family and that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.*

*The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.*

### **Pursuing an Eligible Activity**

The 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.

#### **NHA Policy**

##### **Information to be Gathered**

*The NHA 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**

*In the event third-party verification is not available, the NHA will provide the family with a form on which the family member must record job search efforts. The NHA will review this information at each subsequent reexamination for which this deduction is claimed.*

Furthering Education

*The NHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.*

Gainful Employment

*The NHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.*

**Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

NHA Policy

*The NHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.*

*The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).*

*The NHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.*

**Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

NHA Policy

*The actual costs the family incurs will be compared with the NHA'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 NHA will request additional documentation, as required, to support a determination that the higher cost is appropriate. See Attachment 4.*

## **CHAPTER 8: HOUSING PHYSICAL CONDITION STANDARDS AND INSPECTION REQUIREMENTS**

### **8.A. PHYSICAL STANDARDS REQUIREMENTS**

#### **8.A.1 General HUD Requirements**

The physical condition standards are specified in 24 CFR Part 5 Subpart G and are the minimum criteria a dwelling unit must meet to ensure the health and safety of occupants of housing receiving HUD assistance. These minimum conditions do not supercede or replace any state or local laws regarding the physical conditions or requirement of housing which is owned or assisted by the NHA [24 CFR 5.703 (g)]. The NHA will conduct inspections prior to the execution of the lease, at least annually during assisted occupancy, and at other times as needed to determine if the unit meets the HUD Certified Uniform Physical Condition Standards (U.P.C.S.) requirements and state and local codes as specified by the State of Connecticut and the City of Norwalk. All habitation standards can be categorized into the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site
- Sanitary condition
- Smoke Detectors

Additional guidance on these requirements is found in the following HUD resources:

- DSS/GR Guidelines in 24 CFR 902.23
- HUD Housing Inspection Manual for UPCS
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

#### **Tenant Preference Items**

HUD requires the PHA to enforce minimum standards but also requires that certain judgments about acceptability be left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the condition of the facilities is acceptable.

#### **Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 the PHA must not refuse the request of a family which contains a person with a disability to make necessary and reasonable modifications to the unit, unless such modifications would result in a violation of health, safety and building codes (such as blocking a second means of egress). The cost of such modifications will be borne by the PHA unless it places an undue financial burden on the PHA. [24 CFR 8.4, 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable UPCS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

**NHA Policy**

*The NHA will first offer another unit which meets the ‘reasonable accommodations’ test. If another unit is not available and the cost of any modification would place an undue burden on the NHA, then the family will be placed on the transfer waiting list until a suitable unit becomes available. If the family cannot be provided such an accommodation, the NHA will make best efforts to assist the family in finding suitable accommodations.*

**8.A.2. Additional Local Requirements**

The PHA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of families. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the PHA additions are clarifications of HUD’s acceptability criteria or performance standards.

**Thermal Environment**

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

**NHA Policy**

*Under the City of Norwalk codes, The heating system must be capable of maintaining an interior temperature of 65 degrees year round.*

**Clarifications of HUD Requirements**

**NHA Policy**

*As permitted by HUD, the PHA has adopted the specific requirements which elaborate on HUD standards. See Attachment 5.*

**8.A.3 Life Threatening Conditions**

HUD requires the PHA to define life threatening conditions and to notify the property manager or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of PHA notification.

**NHA Policy**

*The following are considered life threatening conditions:*

- *Any condition which jeopardizes the security of the unit*
- *Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling*
- *Natural or LP gas or fuel oil leaks*
- *Any electrical problem or condition which could result in shock or fire*
- *Absence of a working heating system when outside temperature is below 50 degrees Fahrenheit.*
- *Utilities [electricity, gas and water and provided or paid for by the NHA] not in service.*
- *Conditions which present the imminent possibility of injury*
- *Obstacles which prevent safe entrance or exit from the unit*
- *Absence of a functioning toilet in the unit*

- *Inoperable smoke detectors. [Note: If the NHA determines that the family has intentionally disconnected it (by removing batteries or other means) the family will be charged for the service call].*

#### **8.A.4. Special Requirements For Children With Environmental Intervention Blood Lead Level [24 Cfr 35.1225]**

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in a unit has been identified as having an environmental intervention blood lead level, the PHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the Executive Director of the NHA. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the PHA.

Within 30 days after receiving the risk assessment report or the evaluation from the public health department, the PHA is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the PHA does not complete the “hazard reduction” as required, the dwelling unit is in violation of UPCS and HUD will take action.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

#### **8.A.5. Standards for Repairs**

##### **Life-Threatening Defects**

If a defect is life threatening, the manager (or the family if the breach is caused by the family) must correct the defect within no more than 24 hours of notification by the NHA of the defect.

##### *NHA Policy*

*In the event an inspection finds life threatening defects, the NHA will correct the condition within 24 hours. In those cases where there is leaking gas or potential of fire or other threat to public safety, the NHA will notify the tenant to contact the proper authorities. The NHA has defined the following as emergency or life-threatening conditions:*

- *Fires*
- *Gas leaks*
- *Fire alarms sounding*
- *Electrical power failure to building*
- *Broken water pipes*
- *Sewer blockages to entire unit*
- *No heat*

##### **Other Defects**

Non life-threatening violations of codes and HUD standards can range from serious (e.g. lack of any functioning toilet) to minor (e.g. a leaky faucet).

##### *NHA Policy*

*Where the NHA determines that a violation is serious but not life-threatening, the responsible party must correct the defect within no more than 30 calendar days from the date of notification.*

## **8.B. INSPECTIONS**

Inspections are required before the lease is signed and the family takes occupancy and at least annually during the term of the contract. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.

### **8.B.1 Types of Inspection (See Attachment 4 for Inspection Procedures)**

#### **NHA Policy**

*There are five types of inspections the NHA's designated staff person/s will perform:*

*Initial/Move-in: conducted upon the site visit of an eligible applicant. This inspection will be conducted by an NHA staff person and by the applicant and maintained in the tenant file as a permanent record.*

*Annual Preventive Maintenance [PM] inspection or re-inspection: an NHA staff person generally will conduct such inspections within 35 to 90 days prior to the anniversary of the last inspection.*

*Special complaint or interim inspection: conducted following a complaint by the family, an NHA staff person, or other public agency or third party including prior to and together with a HUD REAC or PBA Contract Administrator inspection. A special inspection will be conducted whenever the NHA obtains information that the unit appears to be in violation of HUD or state and local codes and will be done by an NHA staff person.*

*Move-out/Vacate inspection: conducted for all move-outs and in for 'skip-outs' within 3 business days of such unauthorized move-out) and maintained in the tenant file as a permanent record.*

*Supervisory quality control inspections: conducted by a supervisor or other qualified person for a sample of recently completed inspections.*

### **8.B.2. Scheduling Inspections**

#### **NHA Policy**

*Inspections will be conducted on business days between the hours of 8:30 AM and 4:30 PM. Where special circumstances exist, the NHA may approve inspections on weekends or holidays and after 4:30 PM.*

*The NHA will notify the family in writing, or facsimile or email, where appropriate, at least 2 days prior to the date of the inspection, if the unit is occupied.*

*For reinspections after occupancy, the family is not required to be present.*

### **8.B.3. Standards and Procedures for Re-Occupancy of a Unit**

**NHA Policy See Attachment 6**

## **8.C. POLICY AND PROCEDURES FOR PHYSICAL INSPECTIONS OF NORWALK HOUSING AUTHORITY PROPERTIES AND UNITS**

**NHA Policy See Attachment 6.**

## **8.D PEST CONTROL POLICY**

**NHA POLICY See Attachment 14.**

## **CHAPTER 9: GENERAL LEASING POLICIES**

### **9.A. PRE-LEASE AND OFFER TO LEASE SITE VISIT**

#### **NHA Policy See Attachment 7**

*The offer will be made on an “Offering Form” which will detail the date of final inspection, the date of move-in, the date when activation of utilities can be made and the amount of the deposit to be made and the due date for the rent. In addition, the Pet Policy addendum will be completed, if the applicant intends to bring in a pet. If the adult members of the family are subject to the Community Service Requirement, the CSR form will be completed for each adult member. If the unit is ready for inspection at the time of this visit and the applicant has the required \$100 deposit, the Offering Form will still be completed but the execution of the lease as outlined in 9.B. will proceed.*

*Refusal To Lease: If the applicant is on the waiting list and is offered a unit appropriately sized for that family and meeting any disability ‘reasonable accommodations’ and the family turns down or refuses the unit, then the family will be removed from the waiting list for that and all other waiting lists and will not be permitted to apply for housing assistance for 5 years.*

### **9.B. EXECUTION OF LEASE**

#### **NHA Policy**

*If the unit is ready for occupancy and the applicant has signed the offer and made the required \$100 non-refundable deposit, the following actions will be taken:*

- The unit will be inspected as detailed in Chapter 8 above and any “punch list” items which do not prevent occupancy will be attached to the lease with a time for completion not to exceed 30 days. If the inspection reveals items which prevent occupancy under local habitation codes, then a re-inspection date will be set with the family.*
- The security and rental payment and other deposits will be receipted.*
- The lease will be provided the applicant along with any and all information including utility information and the Tenant Handbook and all will be reviewed including the pet policy addendum if applicable and the Community Service Requirement addendum if applicable, on the established move-in date.*
- An appointment will be made for a final inspection prior to lease execution and then after execution of the lease the keys to the unit will be provided.*

*One original of the lease will be kept in the tenant’s permanent file and a copy will be provided the tenant.*

### **9.C TRANSFERS**

See Appendix G

#### **9.C.1 Preferences**

##### **NHA Policy**

*Transfers to other dwelling units shall be made without regard to protected class status. NHA will give preference in filling vacant units to residents on the transfer list with the approval of the Deputy Director. This means that if there is a family on the transfer list that is appropriate for the size unit that is vacant, the first offer of the unit will be to a transferring family at the top of the transfer list.*

*No transfer request will be approved if the household is otherwise in default of the lease or other statutory obligation(s) and if the maximum number of transfers delineated in 9.C.2 has been reached.*

*Residents shall not be transferred to a dwelling unit of equal size either within a development or between developments, except for alleviating hardships, as outlined below.*

*If the offer of a particular unit made to a transferring family is refused for good reason as determined by the NHA, the NHA will move that family to the bottom of the waiting list, otherwise the family will be removed from the transfer wait list. Then a transfer offer will be made to the next family on the transfer list. No more than two offers will be made for a vacant unit.*

*A family may request a transfer for a move to another unit if it meets certain criteria as follows and will be processed in the following order of preference:*

- 1. Emergencies as determined by the Executive Director and/or the Board of Commissioners including*
  - an uninhabitable unit due to the action or inaction of the NHA or*
  - an 'act of God' disaster, or*
  - ordered or a stipulated judgment by a Court or Law Enforcement Agency and as approved by the Executive Director, or*
  - a barrier free unit occupied by a tenant who does not require the features and which are need by another tenant or an applicant being admitted.*
- 2. Disability as per definitions in Chapter 2;*
- 3. Medical Justification [non ADA] as verified by a doctor and determined by the Executive Director. If the NHA receives notice from a local rehabilitation hospital or nursing home that a resident cannot leave the hospital until a transfer is available, these transfer requests will receive priority over other medical transfer requests. Within these two medical categories, requests for transfers to units with similar features will be fulfilled by date of request. Transfers are offered in the same development. However, a resident could be transferred to another development if the following three conditions are met;*
  - The resident cannot be released from the hospital until a transfer unit is available, i.e., there is a severe need,*
  - An available unit is identified at another development sooner than at the same development, and*
  - The resident is in agreement to change developments.*
- 4. Under housing or over housing as determined by the Executive Director. Transfers within developments shall be made to comply with occupancy guidelines. Transfers between developments may be made for families requiring different size units which do not readily exist within the developments, e.g., resident requires a four bedroom unit and lives in Development A, which has only one to three bedroom units. The resident may, therefore, be considered for a development containing four bedroom units. Residents occupying units that have become too large will be required to transfer within the development in which they reside. In the event that no suitable unit is available within the same development or is likely to become available in the near future, the resident will be transferred to an available unit in another development. The Occupancy Guidelines contained in this Plan will be used to determine when units are underutilized. If the family is over-housed and refuses the transfer offer, legal action will be taken to terminate the lease of the family. If the family includes a child or children temporarily absent from the home due to placement in foster care, NHA 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 one hundred and eighty (180) days from the date of removal*

*of the child(ren), the unit size will be reduced. If all children are removed from the home permanently, the unit size will be reduced in accordance with NHA's Occupancy Guidelines.*

5. *Administrative reasons determined by the PHA (e.g., to permit modernization work, demolition and disposition.*

*Within each preference group, the elderly may request a transfer only to an elderly development.*

### **9.C.2 Other Conditions**

#### **NHA Policy**

- *No transfers shall be made between federal Family programs and other programs.*
- *If the family requests a move to another unit and has a repayment agreement in place for the payment of a claim and the repayment agreement is not in arrears, the family will be required to pay the balance in full prior to transfer. If the family repays the past due amount they will be permitted to move.*
- *No transfer to another unit will be offered by the NHA until the maintenance staff have inspected the unit and determined it to be acceptable.*
- *Elderly residents occupying units in a family development will be given preference when a vacancy exists in an elderly development. In order to receive a preference, the elderly resident must apply for a transfer in writing.*
- *Adult children of the Resident who live with the Resident and have their own children will be required to file an application in order to receive their own unit. An adult child of a resident will not be transferred to his or her own unit. The entire household may be transferred to a larger unit based on the Occupancy Guidelines described herein.*
- *Families will not be permitted to request a transfer to a different unit more than once in a 12-month period. The above restrictions apply to a move within the same building or project or between buildings as well as other moves.*
- *A maximum of 3 transfer offers can be made in a single month and maximum of 30 in a year.*

### **9.C.3 Notice Requirements**

#### **NHA Policy See Appendix G**

*If a family intends to request a transfer, it must provide to the Director of Housing Operations a written request for transfer along with the necessary documentation. If the family has not been recertified within the last 90 days, the Occupancy Specialist will conduct a re-examination process prior to transfer. [The Occupancy Specialist will then conduct an examination of the transfer request and documentation for justification and make a determination. This will then be reviewed and approved by the Director of Housing Operations. This documentation process will not occur in those cases where the original transfer was requested by the NHA because of changes in family composition].*

*If the family is transferred to a new unit in a different development of the NHA, the family must go through the normal move in process, which includes the execution of a new lease.*

## **CHAPTER 10: RENT STANDARDS AND ADJUSTMENTS**

### **10.A. FLAT RENTS**

#### **10.A.1 Determining Flat Rents [24CFR 960.253; Part 5.520]**

Flat rents must be determined to be “reasonable” in relation to comparable unassisted units in the housing market area. In making this determination, PHA will consider the location, quality, size, unit type, age of the unit, amenities and housing services, maintenance and utilities to be provided by the PHA. The PHA must maintain records that document the method used to determine flat rents, and also show how flat rents are determined by the PHA in accordance with this method and document flat rents offered to families under this method. In using flat rents, PHAs do not pay utility allowances. The pro-ration for mixed families also does not apply.

#### ***NHA Policy [For LRPH Only]***

*As the NHA maintains a comprehensive database and analysis for rent comparables for its HCV program, this database will be used to determine flat rents. Periodically, the NHA will review its Flat Rents to determine whether an adjustment should be made for some or all unit sizes (as measured by number of bedrooms). This determination will consider changes in the market and in the property (considering modernization and other capital improvement programs) and will be updated at least every three years or within one year after major changes in property conditions and amenities.*

#### **10.A.2 Flat Rent Re-Certification and Changes**

As described more fully in Chapter 6, tenants choosing the flat rent option are normally recertified annually for family composition and every three years for income. Generally changes in income will not affect the flat rent payment amount. However, a change in income which would result in a change in eligibility for the program should be reported.

### **10.B. INCOME-BASED RENTS**

A PHA may use any formula including a percentage of income for determining income based rents. However such a formula cannot result in a Total Tenant Payment [TTP] in excess of that defined in 24 CFR 5.628.

#### ***NHA Policy***

*The NHA has chosen the 30% of adjusted income rule for determining income-based rents. See Chapter 6.*

### **10.C. RENT ADJUSTMENTS**

A resident may not switch rent payment methods except at the time of the annual renewal of lease or if the family meets financial hardship criteria.

#### ***NHA Policy***

*To be eligible to switch from flat rents to income-based rents, a resident must demonstrate financial hardship as follows:*

- 1. A decrease in family income*
- 2. An increase in expenses in the following areas;*
  - a) medical expenses*
  - b) educational expenses*
  - c) occupational*
  - d) child care*

3. *Other, as determined by the Norwalk Housing Authority*

*The NHA will make a determination evaluating the changed circumstances using the following criteria:*

- a. The income change must increase the housing expenses to greater than 40% of income*
- b. Verification must document un-reimbursed expenses for a minimum of a 4 week period*
- c. Rent will be changed within a “reasonable period”—generally within 30 days following verification of the change in circumstances*

## **CHAPTER 11: RE-EXAMINATIONS**

### **11.A. ANNUAL RE-EXAMINATION OF FAMILY INCOME AND COMPOSITION**

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. However, for residents who choose the flat rent payment option, the annual re-examination is only required for household composition. Income is to be re-examined every three years.

### **11.B. SCHEDULING ANNUAL RE-EXAMINATIONS**

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently.

#### **NHA Policy**

*The NHA will begin the annual reexamination process 90 - 120 days in advance of its scheduled effective date.*

*During a family's first year in the program, a re-examination will be scheduled to occur in the assigned month for that development, even if that date is less than 12 months from lease execution.*

*Thereafter, the anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or if the family transfers to a new unit in a different development, the NHA will perform a new annual reexamination if that transfer date is more than 90 days from the assigned month for that development.*

*The NHA also may 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 the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA.

#### **NHA Policy See Attachment 9**

*Families are required to participate in an annual reexamination interview, which must be attended by the head of household plus all household members over the age of 18. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the NHA to request a reasonable accommodation (see Chapter 2).*

### **11.C. CONDUCTING ANNUAL RE-EXAMINATIONS**

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition .

#### **NHA Policy See Attachment 9**

*Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include an NHA re-examination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.*

*Any required documents or information which the family is unable to provide at the time of the interview must be provided within 24 business hours of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.*

*If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).*

*PBA Policy*

*Note that Colonial Village (Project Based Section 8) has different procedural requirements in Handbook 4350.3 Rev3 pp7-3 and following.*

*In addition, family members (except Minors) and Live-in Aides shall take and pass an annual Class 1 drug test screening for illegal drugs including marijuana, cocaine, heroin, PCP, and methamphetamines. Such tests are paid for by the NHA.*

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the PHA Standards (see Chapter 8), the PHA must transfer the family to an acceptable unit as soon as possible.

#### **11.D. EFFECTIVE DATES**

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination.

*NHA Policy*

*In general, an increase in the family share of the 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. Due to the requirement that the notice be received 30 days in advance, all re-examinations will be completed and notices mailed, 35 days prior to the anniversary date.*

*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 a family moves to a new unit it will sign a new lease and the increase will take effect on the effective date of the new lease and no 30-day notice is required.*

*If the NHA chooses to schedule an annual re-examination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the NHA, but will always allow for the 30-day notice period.*

*If the family causes a delay in processing the annual re-examination, increases in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual re-examination. The family will be responsible for any underpaid rent and such due payment will be required by the end of the month.*

*In general, a decrease in the family share of the rent that results from an annual re-examination will take effect on the family's anniversary date.*

*If a family moves to a new unit, the decrease will take effect on the effective date of the new lease.*

*If the NHA chooses to schedule an annual re-examination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the NHA.*

*If the family causes a delay in processing the annual re-examination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the re-examination processing.*

*Delays in re-examination processing are considered to be caused by the family if the family fails to provide information requested by the NHA by the date specified and this delay prevents the NHA from completing the re-examination as scheduled. Upon completion of a delayed re-examination, a new or modified lease will be executed reflecting date changes, rent and other changes.*

## **11.E. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

### **NHA Policy**

*The NHA will conduct interim re-examinations to account for any changes in household composition which occur between annual re-examinations.*

### **New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition.

### **NHA Policy**

*The family must inform the NHA in writing of the birth, adoption or court-awarded custody of a child within 10 business days.*

### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member or other household member (live-in aide or foster child).

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member and to make appropriate adjustments in the family's rent.

If a change in family size causes a violation of PHA or State or Local habitation code space standards (see Chapter 8), the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must transfer the family and lease to the new unit.

### **NHA Policy**

*Families must request NHA approval to add a new family member, live-in aide (as needed for reasonable accommodation of a disability), foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 15 consecutive days, or 30 cumulative days, within a twelve month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the NHA prior to the individual moving in the unit.*

*The NHA will not approve the addition of a new family or household member unless the individual meets the NHA's eligibility criteria (see Chapter 3).*

*The NHA reserves the right to not approve the addition of a foster child or foster adult if it will cause a violation of its space standards and there is no other suitable unit which the family can be transferred to.*

*If the NHA determines an individual meets the NHA's eligibility criteria as defined in Chapter 3, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to the NHA space standards, the approval letter will explain that the family will be required to move.*

*If the NHA determines that an individual does not meet the NHA's eligibility criteria as defined in Chapter 3, the NHA 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. See Section 9.C.1 and 2.*

*The NHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.*

### **Departure of a Family or Household Member or a Change in Household Head**

Families must promptly notify the PHA if any family member no longer lives in the unit or if there is a change in the head of household (typically when there is a marriage or a divorce). Because household members are considered when determining the family unit (voucher) size, the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

#### **NHA Policy**

*If a household member ceases to reside in the unit, or the head of household changes due to marriage or divorce, the family must inform the NHA within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.*

*If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the NHA within 10 business days.*

*When the head of household changes, all documents signed by the original head of household must be re-signed by the new head of household.[Also see Section 7.I]*

### **11.F. CHANGES AFFECTING INCOME OR EXPENSES**

Interim re-examinations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

#### **PHA-Initiated Interim Re-examinations**

PHA-initiated interim re-examinations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

#### **NHA Policy**

*The NHA will conduct interim re-examinations in each of the following instances:*

- *For families receiving the Earned Income Disallowance (EID), the NHA will conduct an interim re-examination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).*
- *If at the time of the annual re-examination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclical income), the NHA will schedule an interim re-examination to coincide with the end of the period for which it is feasible to project income.*
- *If at the time of the annual re-examination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the NHA may conduct an interim re-examination.*
- *The NHA may conduct an interim re-examination at any time in order to correct an error in a previous re-examination, or to investigate a tenant fraud complaint.*

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination.

#### ***Required Reporting***

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

**NHA Policy**

*Families are required to report any increase of \$2,400 or more in annual earned income, including new employment, within 15 days of the date the change takes effect.*

*The NHA will only conduct interim re-examinations for families which qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, the NHA will note the information in the tenant file, but will not conduct an interim re-examination unless the increase in income would result in a TTP greater than \$60/month for income based rent tenants only.*

*Flat rent based tenants are exempt from any re-examination.*

**Optional Reporting**

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. The PHA must process the request if the family has chosen the income based rent option and reports a change that will result in a reduced family income or if the family has chosen the flat rent option and is experiencing financial hardship.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

**NHA Policy**

*If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent less than \$60/month, the PHA will note the information in the tenant file, but will not conduct an interim re-examination.*

*If an income based rental family reports a change that it was not required to report and that would result in a decrease in the family's rent, the NHA will conduct an interim re-examination.*

*Flat rent based tenants are exempt from re-examination for changes in income.*

*Families may report changes in income or expenses at any time.*

**11.G. PROCESSING THE INTERIM REEXAMINATION**

**Method of Reporting**

**NHA Policy**

*The family may notify the NHA of changes in writing (mail, email or fax).*

*Generally, the family will not be required to attend an interview for an interim re-examination. However, if the NHA determines that an interview is warranted, the family will be required to attend.*

*Based on the type of change reported, the NHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 24 hours of receiving a request from the NHA. This time frame may be extended for good cause with NHA approval. The NHA will accept required documentation by mail, email, fax, or in person.*

**Effective Dates**

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family's rent, and whether the family reported any required information within the required time frames.

**NHA Policy**

*If the family's rent is to increase:*

*The increase generally will be effective on the first of the month following receipt of a notice to the family 30 days prior to the first of the following month.*

*If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent. However, if the retroactive rent not paid is greater than \$2,000, the NHA will proceed to eviction of the family and will be reported to the Inspector General*

*If the family share of the rent is to decrease:*

*The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.*

**11.H. CHANGES IN UTILITY ALLOWANCES**

In order to calculate the TTP amount correctly, changes in utility allowances may need to be updated and included in the PHA's calculations. Specific policies governing how utility allowances are applied are discussed below.

**Utility Allowances**

The family's rent calculations must reflect any changes in the family's utility arrangement with the PHA, or in the PHA's utility allowance schedule. Chapter 16 discusses how utility allowance schedules are established. At reexamination, the PHA must use the PHA current utility allowance schedule for income based rents. This does not apply to flat rents.

**NHA Policy**

*Revised utility allowances are calculated in December and apply to all applicable leases as of April 1<sup>st</sup> following.*

**11.I. PAYMENT ADJUSTMENT NOTICE**

The PHA must notify the family of any changes in the amount of the TTP. The notice must include the amount and effective date of the new family rent

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the TTP.

**PHA Policy**

*The notice will state the procedures for requesting an informal hearing. The notification will indicate that if the family does not agree with NHA's determination the family may request an informal hearing, and specify that the deadline date to request a hearing is 14 days from the date of the notification. NHA will make every effort to send the rental adjustment notice at least 30 days before the effective date of the change. A copy of this notice, which also will indicate the changed rent amount, will be placed in the Tenant's annual file.*

**11.J. 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 rents are discovered, corrections will be made in accordance with the policies in Chapter 13.

## **CHAPTER 12: TERMINATION OF LEASE**

HUD regulations specify the reasons for which a PHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family.

The PHA may terminate a lease for a family because of the family's action or failure to act. Under the lease the PHA provides families with a written description of the family obligations under the program, the grounds under which the PHA can terminate the lease and the PHA's informal hearing procedures. This Chapter describes when the PHA is required to terminate a lease, when a family may terminate a lease and the PHA's policies for the denial of a new lease.

### **12.A. FAMILY NO LONGER REQUIRES ASSISTANCE – I.E., IT IS OVER INCOME**

PHAs may evict or terminate the tenancies of families who are over income. However, unless it is required to do so by local law, a PHA may not evict or terminate the tenancy of a family solely because the family is over the income limit for public housing. A PHA may not evict a family for being over the income limit for public housing if the family currently receives the earned income disallowance provided by 42

U.S.C. 1437a(d).

#### **NHA Policy**

*If a family is over income after occupancy, the NHA will not proceed with eviction for that reason only, except if the family misrepresented their income at the time of admission to the program.*

### **12.B. FAMILY CHOOSES TO TERMINATE LEASE**

The family may request that the PHA terminate the family's lease at any time.

#### **NHA Policy**

*The request to terminate a lease must be made in writing and signed by the head of household and/or co-head and submitted to the NHA by the first of the month, at least 30 days in advance of the intended move-out date. In the case of the death or incapacity of the head of household the next of kin will be notified, provided access to the unit and complete a Release form. All outstanding obligations under the lease must be met, before the NHA will accept the lease termination.*

### **12.C. MANDATORY TERMINATION OF LEASE**

HUD requires the PHA to terminate assistance in several circumstances.

1. If any member of the family fails to sign and submit HUD or PHA required consent forms for obtaining information.
2. If no member of the family is a U.S. citizen or eligible immigrant.
3. If any family member violates the terms of the lease which constitute grounds for termination.
4. Any conviction for the manufacture of amphetamines on any federally assisted property at any time in the past or currently.
5. Actual physical abuse or violence against members of the household, against residents of the development or their guests or against PHA staff, its contractors or agents.
6. Registered sex offenders

### **12.D. OTHER PERMITTED GROUNDS FOR TERMINATION OF THE LEASE**

The PHA may terminate the tenancy only for

**Serious or repeated violation of material terms of the lease** such as failure to make payments due under the lease or failure to fulfill household obligations, as prescribed in the lease

**Other good cause** such as criminal activity or alcohol abuse, discovery after admission of facts that made the tenant ineligible, discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income, failure of a family member to comply with service requirement provisions and failure to accept the PHA's offer of a lease revision to an existing lease, with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect and with the offer specifying a reasonable time limit within that period for acceptance by the family.

If the NHA seeks to terminate the tenancy for criminal activity as shown by a criminal record, the NHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record before a NHA grievance hearing [See Appendix A] or court trial concerning the termination of tenancy or eviction. The tenant must be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial. The PHA may not pass along to the tenant the costs of a criminal records check.

#### ***Use of Illegal Drugs and Alcohol Abuse***

The PHA must establish standards which allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol which threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA must establish standards which allow termination of tenancy if the PHA determines that a tenant has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

#### **NHA Policy**

*The NHA will terminate a family's assistance/tenancy if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. Currently engaged in is defined as any use of illegal drugs.*

*The NHA will terminate assistance/tenancy if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.*

*The NHA may consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol and any eviction or notice to evict based on drug-related or violent criminal activity.*

*In making its decision to terminate assistance/tenancy, the NHA may consider options and other factors described below. Upon consideration of such options and factors, the NHA may, on a case-by-case basis, choose not to terminate assistance/tenancy.*

*If any tenant provides false or misleading information about illegal drug use, alcohol abuse or the rehabilitation of any illegal drug users or alcohol abusers, the NHA will terminate the tenancy of that tenant.*

#### ***Other Authorized Reasons for Termination of Assistance***

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance.

### **NHA Policy**

*The NHA will not terminate a family's assistance/tenancy because of the family's failure to meet its obligations under the LRPB Family Self-Sufficiency program.*

*The NHA will terminate a family's assistance/tenancy if:*

- *The family has failed to comply with any family/lease obligations under the program.*
- *Any family member has been evicted from federally-assisted housing in the last three years.*
- *Any PHA has ever terminated assistance under the program for any member of the family.*
- *Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.*
- *The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.*
- *The family has not reimbursed any PHA for damages to the unit, or other amounts owed by the family under the lease.*
- *The family has breached the terms of a repayment agreement entered into with the NHA.*
- *A family member has engaged in or threatened violent or abusive behavior toward NHA personnel.*
- *Abusive or violent behavior towards NHA personnel includes but is not limited to 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. Such threats or gestures can be documented in a police report or can be observed and reported in a written incident report by NHA personnel.*
- *Actual physical abuse or violence will always be cause for termination.*

*In making its decision to terminate assistance/tenancy, the PHA may consider options and other factors described below. Upon consideration of such options and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.*

### **Family Absence from the Unit**

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

### **NHA Policy**

*If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance/tenancy will be terminated.*

### **Community Service Grounds for Refusing Renewal of Lease**

All adults residing in the unit except those who are exempt, are obligated to perform 8 hours of community service per month for a cumulative requirement of 96 hours for the term of the lease (one year) [24 CFR Part 5 Subpart F]. (See Appendix C).

Failure to perform the service within the 12 months of the lease term, requires that the PHA not renew the lease and that the family must move out except under certain conditions.

### **NHA Policy**

*If any adult member of the family required to perform community service has not completed such service, 35 days prior to the end of the lease term, the member and family will be informed that the lease will not be renewed unless the tenant, and any other noncompliant resident, enter into a written agreement with the NHA, in the form and manner required by the NHA (See Appendix C),*

*to cure such noncompliance by completing the additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over the twelve-month term of the new lease, and (2) All other members of the family who are subject to the service requirement are currently complying with the service requirement or are no longer residing in the unit.*

**Note: The Community Service requirement does not apply to tenants in State of Connecticut financed developments**

## **12.E. ALTERNATIVES TO TERMINATION OF LEASE**

### **Change in Household Composition**

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer reside in the unit.

#### **NHA Policy**

*Any violation by any member of the family will result in the termination of assistance/tenancy of the family.*

### **Repayment of Family Debts**

#### **NHA Policy**

*If a family owes amounts to the NHA, as a condition of continued occupancy, the NHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the NHA of the amount owed. See Chapter 16 for policies on repayment agreements.*

## **12.F. CRITERIA FOR DECIDING TO TERMINATE LEASE**

### **Evidence**

For criminal activity, HUD permits the PHA to terminate assistance 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.

#### **NHA Policy**

*The NHA will use the 'preponderance of evidence' as the standard for making all termination decisions.*

### **Consideration of Circumstances**

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

#### **NHA Policy**

*The NHA may consider the following factors when making its decision to terminate assistance/tenancy:*

- *The seriousness of the case, especially with respect to how it would affect other residents;*
- *The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities;*
- *The length of time since the violation occurred;*
- *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;*
- *The NHA may require the family to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program. Providing false or misleading information will be grounds for lease termination.*

### **Reasonable Accommodation**

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

### NHA Policy

*If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance/tenancy, the NHA will determine whether alternative measures are appropriate as a reasonable accommodation. The NHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. Exceptions to this relate to the rules governing alcohol and drug abuse as outlined in Chapter 2 N.*

## **12.G. TERMINATION NOTICES**

If a family's lease is to be terminated, whether voluntarily or involuntarily, the PHA must give the family written notice that specifies:

- The reasons for which the lease is to be terminated,
- The effective date of the termination,
- The family's right to an informal hearing as described in Chapter 16 and Appendix A.

### NHA Policy

*If the NHA seeks to terminate a lease for any reason other than non-payment of rent, it will provide a Pre-Termination Notice. This will state the reason for the proposed termination and inform the family that it has 15 days to request a hearing in writing. If no request is made, then 30 days from the date of the Pre-Termination Notice, a Notice to Quit which requires the family to vacate the unit within 10 days.*

*Connecticut landlord/tenant laws will govern the process by which the NHA will recover possession of the premises.*

*When a family requests to have its lease terminated, it must do so in writing to the NHA by the first of the proposed final month of tenancy.*

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record.

When a PHA evicts an individual or family for criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

In the case of failure to pay rent the following procedures will apply:

### NHA Policy

*The due date for rent payment is the first day of the month. Rent is overdue if not paid on or before the 10<sup>th</sup> day of the month. If not paid, the NHA will inform the tenant in writing [ 'Pre-Termination Notice' ] that the rent is overdue.*

*If the tenant does not pay the rent or does not respond within 14 days of the Pre-Termination notice, the tenant will receive a 'Notice to Quit' and the NHA will follow the process outlined in the section above.*

*See Attachment 15.*

## **Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the 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 that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

**NHA Policy**

*The notice to terminate will be sent to the family at least 30 calendar days prior to the effective date of the termination.*

**12.H. FAMILY LEASE OBLIGATIONS**

**NHA Policy See Attachment 10**

**12.I ENFORCING FAMILY LEASE OBLIGATIONS**

**NHA Policy**

*Housing habitability code breaches: NHA staff will determine whether a breach of the State and local habitability codes and REAC rules is the responsibility of the family. Families will be given a 30 day pre-termination notice to cure such breaches.*

*Family Member moves out: families are required to promptly notify the NHA if any family member leaves the household. When the family notifies the NHA they must furnish the following information:*

- *The date the family member moved out;*
- *A Photo ID with the new address of the family member;*
- *A utility bill in the family member's name with the new address;*
- *A Police Report.*

*Limitation on Profit-making Activity in Unit:*

*See Attachment 1: Tenants Handbook*

**False or Incomplete Information**

**NHA Policy**

*When the NHA has information (such as a permanent resident card or information from another agency) which contradicts the declaration of citizenship made by an applicant or tenant, the individual will be required to present suitable documentation.*

*If the individual is unable to verify their citizenship, the NHA may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The NHA will then verify eligible status, deny, terminate, or prorate as applicable.*

- *The NHA will deny or terminate leases based on the submission of false information or misrepresentations.*
- *If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the NHA either after the INS appeal or in lieu of the INS appeal.*
- *After the NHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated rent (if*

*applicable) or, for tenants who qualify, for Temporary Deferral of Termination of the Lease.*

*If the family has negligently caused the NHA to undercharge rent totaling less than \$2,000, the NHA may choose not to terminate and may offer to continue occupancy provided that the family reimburses the NHA in full within 12 months and executes a repayment agreement.*

*If the family willingly and knowingly commits fraud or is involved in any other illegal scheme with any NHA staff person/s, the NHA will terminate the assistance/tenancy. In making this determination the NHA will carefully consider the possibility of overt or implied intimidation of the family by the staff person and the family's understanding of the events.*

### **Missed Appointments and Deadlines**

It is a Family Obligation to supply information, documentation, and certification as needed for the NHA to fulfill its responsibilities. The NHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the NHA to inspect the unit and appointments are made for this purpose.

#### **NHA Policy**

*An applicant or resident who fails to keep an appointment, or to supply information required by a deadline without notifying the NHA in writing, may be sent a Notice of Denial or Termination of the Lease for failure to provide required information, or for failure to allow the NHA to inspect the unit.*

*Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:*

- 1. Eligibility for Admissions*
- 2. Verification Procedures*
- 3. Briefings*
- 4. Unit Inspections and Acceptance*
- 5. Re-Examinations*
- 6. Appeals*

*For most purposes of this Plan the family will be given one opportunity before being issued a notice of termination or denial for breach of a family obligation.*

## **12.J VIOLENCE AGAINST WOMEN ACT**

### **NHA Policy See Appendix H**

*The Norwalk Housing Authority will not evict, or remove assistance from certain persons living in public housing if the asserted grounds for such action is an instance of domestic violence, dating violence, sexual assault, or stalking as those terms are defined in Section 3 of the United States Housing Act of 1937 as amended by the Violence Against Women and Justice Department Reauthorization Act 2005.*

*The NHA may bifurcate a lease in order to evict, remove, or terminate the assistance of the offender while allowing the victim, who is a tenant or lawful occupant, to remain. In addition, the NHA will provide information to any other PHA concerning a victim under the Act subject to confidentiality requirements.*

*Before complying, the NHA may ask an individual for documentation that he or she is or has been a victim of domestic \*violence\*, dating \*violence\*, or stalking, subject to certain statutory requirements related to confidentiality and the types of documentation that may be used.*



## **CHAPTER 13: CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS**

This Chapter describes the NHA's policies, procedures and standards for leases. Leases have provisions for the family's liability to the NHA when families move out. The lease has a provision for damages and for court, legal and rental losses when a family is evicted.

### **13.A. NHA CLAIMS**

#### **NHA Policy**

*It is the NHA's policy to meet the informational needs of families and to communicate the program rules in order to avoid family debts. Before a debt is assessed against a family the file must contain documentation to support the NHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the family or other interested parties.*

*When families owe money to the NHA it will make every effort to collect it. It will use a variety of collection tools to recover debts including, but not limited to:*

- *Requests for lump sum payments*
- *Civil suits*
- *Repayment agreements*
- *Collection agencies*
- *Credit bureaus*

*Under leases the NHA may make claims for damages, unpaid rent and vacancy loss (vacancy losses include court, legal and lost revenue costs when a person vacates the unit due to eviction or leaving the unit without notice).*

*NHA claims for payment for unpaid rent, damages, court costs, legal costs or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The NHA establishes standards by which to evaluate claims, but the burden of proof rests with the family.*

*The tenant is ultimately responsible to reimburse the NHA for claims of the NHA. The NHA will have the right to retain any and all deposits to settle the claims and to sue for the balance if any.*

### **13.B. UNPAID RENT**

#### **NHA Policy**

*Unpaid rent only applies to the rent while the tenant is in residence under the lease.*

*Separate agreements for other items which may be specified in the lease are considered a tenant obligation under the lease. These obligations may be affected by Connecticut Law.*

### **13.C. MOVE-OUT AND CLOSE-OUT INSPECTIONS**

#### **NHA Policy See Attachment 6**

*Move-out inspections are performed after the tenant has vacated the unit. These inspections are performed to assess the condition of the unit. Move-out inspections will be conducted by Norwalk Housing Authority's staff.*

*The NHA's Initial Inspection of the unit at original lease time or the latest annual inspection, will include a "conditions" report which will be compared to the conditions found during the move-out inspection.*

*When a tenant 'skips out' without notifying the NHA, the NHA will complete a move-out inspection within 3 business days of the discovery.*

*When a tenant provides notice of the move-out, the NHA will notify the tenant that a joint inspection will be conducted within three business days of the move-out.*

*A refund of deposits by the tenant (if any) will not be approved until the move-out inspection is completed, except that if the tenant gave proper notice according to the lease terms and the NHA failed to make a move-out inspection.*

*In the event that the NHA is unable to inspect the unit within three business days of move-out, the tenant will be permitted to document conditions to dispute any claims of damages by the NHA.*

*No transfer to another unit will be offered by the NHA until it has inspected the unit and issued an acceptable condition report and is also authorized by the Deputy Director.*

### **13.D. PROCESSING CLAIMS**

#### **NHA Policy**

*Any amount owed by the tenant to the NHA for unpaid rent or damages will first be deducted from any deposits that the NHA may have collected under its program rules. If any deposits are insufficient to reimburse the NHA for the unpaid tenant rent, or other amounts which the family owes under the lease, the NHA may sue for reimbursement from the tenant up to the limits for the claim.*

*The NHA reviews claims for unpaid rent, damages or vacancy loss and makes a preliminary determination of the amount payable. The family is informed that a claim is pending (notice sent to last known address). The notification will state the preliminarily determined amount, the type of claim and describe the procedure for contesting the claim.*

*The NHA will offer the family 15 days to contest the claim. If the family disputes the claim, the NHA will schedule an informal hearing with the tenant in order to resolve the differences.*

*If the tenant fails to attend the hearing the NHA will proceed with its original determination.*

*After a determination has been made the NHA will notify the family, in writing, of the decision. If it has been determined that the family owes money the NHA will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that they may be denied future participation in any HUD assistance program anywhere in the USA if they do not reimburse the NHA as required.*

*The NHA will require proof that the tenant has complied with State and local laws applicable to security deposits before making payment on any claim.*

*All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.*

*Costs of filing eviction to remove the tenant, or any other legal fees, will be reimbursed if there is a judgment in favor of the NHA.*

### **13.E. REPAYMENT AGREEMENT FOR FAMILIES**

#### **NHA Policy See Attachment 11**

*A Repayment Agreement, as used in this Plan, is a document entered into between the NHA and a tenant who owes a debt to the NHA which does not exceed \$2,000. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement and the remedies available to the NHA upon default of the agreement. It is attached to the lease as an amendment to the lease and must be executed by the same parties to the current lease agreement.*

*The maximum length of time the NHA will enter into a repayment agreement with a family is the balance of the current lease term, but may be extended if and when the lease is renewed up to a total of 12 months.*

*Repayment Agreements will be executed between the NHA and members of the household 18 years or older.*

*No transfer will be approved until the debt is paid in full unless the transfer is the result of the following causes and the Repayment Agreement is current:*

- family size exceeds the occupancy standards*
- a natural disaster*

*If the family has a Repayment Agreement in place and incurs an additional debt to the NHA, the NHA will not enter into more than one Repayment Agreement at that time with the same family and additional amounts owed by the family will be added to the existing repayment agreement. If a Payment Agreement is in arrears it is treated as a late rent payment and is subject to the process for late payments described in section 13.F below.*

*There are some circumstances in which the NHA will not enter into a repayment agreement.*

- If the family already has had a repayment agreement in the past, or*
- has a Repayment Agreement currently, or*
- the family has negligently incurred debts to the NHA in excess of \$2,000.*

### **13.F. LATE PAYMENTS**

#### **NHA Policy**

*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.*
- family's repayment agreement is in arrears the NHA will require the family to pay the balance in full, or pursue civil collection of the balance due and terminate the lease.*

*If the family requests a move to another unit or to another program such as the Housing Choice Voucher program and has a repayment agreement in place for the payment of a claim and the repayment agreement is not in arrears, the family will be required to pay the balance in full prior to transfer.*

- If the family repays the past due amount they will be permitted to move.*

*For all developments, a late charge of \$20 is applied for non-payment by the tenth day thereafter.*

### **13.G. DEBTS OWED FOR DAMAGE CLAIMS**

#### **NHA Policy**

*If a family owes money to the NHA for damages paid by the NHA, it will enter into a Repayment Agreement.*

### **13.H. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION**

#### **NHA Policy**

*HUD's definition of program fraud and abuse is a single act or pattern of actions which constitutes false statements, omissions, or concealment of a substantive fact, made with intent to deceive or mislead and that results in use of NHA funds in violation of program requirements.*

*Families who owe money to the NHA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.*

*Families who owe money to the NHA due to program fraud will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.*

*If a family owes any amount as a result of program fraud, the case will be referred to the Inspector General at the Executive Director's discretion. Where appropriate, the NHA will refer the case for criminal prosecution.*

## **CHAPTER 14: PROGRAM INTEGRITY**

### **INTRODUCTION**

The PHA is committed to ensuring that government 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.

### **14.A. PREVENTING ERRORS AND PROGRAM ABUSE**

#### **NHA Policy**

*The NHA anticipates that the vast majority of families, third party managers and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.*

*To ensure that the NHA's programs are administered effectively and according to the highest ethical and legal standards, the NHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.*

*The NHA will discuss program compliance and integrity issues during the briefing sessions described in Chapter 5.*

*The NHA will provide each applicant and resident with information which explains the types of actions a family must avoid and the penalties for program abuse.*

*The NHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key NHA forms and form letters which request information from a family.*

*NHA staff will be required to review and explain the contents of all HUD and NHA forms prior to requesting family member signatures.*

*The NHA will provide each NHA 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.*

### **14.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**

Under the Public Housing Assessment Program (PHAS), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure physical code compliance. (See Chapter 17 for additional information about PHAS requirements).

#### **NHA Policy**

*In addition to the PHAS quality control requirements, the NHA will employ a variety of methods to detect errors and program abuse.*

*The NHA routinely will use available sources of electronic income verification to compare with family-provided information.*

*At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.*

*The NHA will compare family-reported income and expenditures to detect possible unreported income.*

### **Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs which expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

#### **NHA Policy**

*The NHA 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 NHA's error detection and abuse prevention efforts.*

### **Individual Reporting of Possible Errors and Program Abuse**

#### **NHA Policy**

*The NHA will encourage staff, program tenants and the public to report possible program abuse.*

## **14.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **When the PHA Will Investigate**

#### **NHA Policy**

*The NHA will review all referrals, specific allegations, complaints and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation.*

*The NHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.*

### **Consent to Release of Information**

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 give consent to the release of additional information.

### **Analysis and Findings**

#### **NHA Policy**

*The NHA will base its evaluation on a "preponderance of evidence" collected during its investigation.*

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

*For each investigation the NHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the NHA, and (3) what corrective measures or penalties will be assessed.*

### **Consideration of Remedies**

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

#### **NHA Policy**

*In the case of errors the NHA will allow the family 10 days to correct the documents.*

## **Notice and Appeals**

### **NHA Policy**

*The NHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the NHA determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).*

## **14.D. UNDER OR OVERPAYMENTS**

A subsidy under or overpayment includes (1) an incorrect family rent established for the family and (2) an incorrect utility reimbursement to a family.

### **Corrections**

Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the family rent and any utility reimbursement prospectively.

### **NHA Policy**

*Increases in the family rent will be implemented after the family has received 30 days notice, except in the case of changes due to incorrectly or untimely reporting of information by the family.*

*Any decreases in family 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 make retroactive payments to the family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

## **14.E. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect rental 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 PHA**

### **NHA Policy**

*In the case of family-caused errors or program abuse, the family will be required to repay any under payments. The NHA may, but is not required to, offer the family a repayment agreement. If the family fails to repay the funds, the NHA will terminate the family's assistanc/tenancy in accordance with the policies in Chapter 12. The NHA will not reimburse the family for any rental or other over-charges when the overcharge clearly is caused by the family.*

### **Prohibited Actions**

An applicant or tenant in the program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

### NHA Policy

*Any of the following will be considered evidence of family program abuse:*

- *Offering bribes or illegal gratuities to the NHA Board of Commissioners, employees, contractors, or other NHA 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 NHA on the family's behalf*
- *Use of a false name or the use of falsified, forged, or altered documents*
- *Intentional misreporting of family information or circumstances (e.g. income, family composition)*
- *Omitted facts that were obviously known by a family member (e.g., not reporting employment income)*
- *Admission of program abuse by an adult family member*

*The NHA may determine other actions to be program abuse based upon a preponderance of the evidence and as defined in other chapters.*

### **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 excess amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of continuing occupancy, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for tenants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution.

### **14.F. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the programs. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, (2) assigning and inappropriate unit size to a family and (3) errors in calculation.

### **Repayment to the PHA**

A family is not required to repay an underpayment of rent or an overpayment of a utility allowance if the error or program abuse is caused by PHA staff.

### **PHA Reimbursement to Family**

The PHA must reimburse a family for any underpayment of an allowance, regardless of whether the underpayment was the result of staff-caused error or staff program abuse.

### **Prohibited Activities**

*NHA Policy See Attachment 12*

**14.G. CRIMINAL PROSECUTION**

*NHA Policy*

*When the NHA determines that program abuse by a family or NHA staff member has occurred and the amount of underpayment meets or exceeds the threshold for prosecution under local or state law, the NHA will refer the matter to the appropriate entity for prosecution. Underpayment will also be referred to the HUD Office of Inspector General (OIG).*

*Other criminal violations related to the program will be referred to the appropriate local, state, or federal entity.*

**CHAPTER 15: SPECIAL HOUSING TYPES**

Reserved for special programs such as Mixed Financing.

## **CHAPTER 16: PROGRAM ADMINISTRATION**

### **INTRODUCTION**

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan.

### **16.A. PROGRAM STANDARDS AND SCHEDULES**

Although many of the program's requirements are established centrally by HUD, the program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

### **16.B. FLAT RENTS**

Flat rents are discussed in Chapter 6

### **16.C. UTILITY ALLOWANCES**

See also Chapter 6.

A PHA-established utility allowance schedule is used in determining family share and PHA share for income based rental calculations. This does not apply to 'Flat Rent' tenants. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with UPCS. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type.

### **Reasonable Accommodation**

Program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

### **Utility Allowance Revisions**

The PHA must review its schedule of utility allowances each year and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility

was revised.

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

***NHA Policy***

*Copies of the utility allowance schedules are available for review in the NHA's offices during normal business hours.*

*Families, staff, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.*

*The NHA will maintain documentation to support its annual review of utility allowance schedules. This documentation will be retained for at least 3 years.*

**16.D. GRIEVANCE PROCEDURES**

When the PHA makes a decision that has an impact on a family, the family is often entitled to appeal the decision. For applicants and tenants, the appeals process starts with an informal review, can go to an informal hearing and finally to court action. Generally speaking, most of the terms and conditions of occupancy including grievance procedures are included in the lease.

PHAs are required to include in their administrative plans, informal review and hearing procedures for applicants and tenants. See Appendix A

**16.E. INFORMAL REVIEWS**

Informal reviews are provided for program applicants and tenants. Informal reviews are intended to provide a “minimum hearing requirement”, and need not be as elaborate as the hearing requirements.

Any grievance shall be personally presented, either orally or in writing, to the PHA office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the tenant and one retained in the PHA's tenant file. The summary shall specify the names of the tenants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

Informal reviews are *not* used for the following issues:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA occupancy standards
- A PHA determination that the unit is not in accordance with its physical standards due to family size or composition

***NHA Policy***

*The NHA will offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying a preference for the waiting list; or withdrawing a unit offer; refusing to enter into a lease.*

*The NHA will also offer an informal review to tenants who file a written complaint or grievance.*

**Notice to the Applicant**

The PHA must give an applicant prompt notice of a decision denying assistance. 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 review of the decision. The notice must describe how to obtain the informal review.

## **Scheduling an Informal Review**

### **NHA Policy**

*A request for an informal review must be made in writing and delivered to the NHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the NHA's denial of assistance.*

*The NHA must schedule and send written notice of the informal review within 10 business days of the family's request.*

## **Informal Review Procedures**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

The person conducting the review will make a recommendation to the PHA, but the PHA is responsible for making the final decision as to whether assistance should be granted or denied.

## **Informal Review Decision**

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

### **NHA Policy**

*In rendering a decision, the NHA will evaluate the following matters:*

- *Whether or not the grounds for denial were stated generally in the Notice.*
- *If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.*
- *The NHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the NHA will uphold the decision to deny assistance.*

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

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

## **16.F. INFORMAL HEARINGS FOR TENANTS**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a tenant family. A tenant is defined as a family that has been admitted to the PHA's housing program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's lease until the time allowed for the family to request an informal hearing has elapsed and any requested hearing has been completed. Termination of lease for a tenant may include any or all of the following:

### **Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a tenant family an opportunity for an informal hearing are as

follows:

- Determination of the family's annual or adjusted income and the computation of the housing rental payment.
- Appropriate utility allowance used from schedule for income-based rents.
- Family unit size determination under NHA occupancy standards.
- Determination that the tenant family is under-occupied in their current unit and a request for exception is denied.
- Determination that a disabled person is required to perform Community Service.
- Determination to terminate a lease for any reason.

#### *NHA Policy*

*The NHA will only offer tenants the opportunity for an informal hearing when required to by the regulations.*

### **Informal Hearing Procedures**

#### ***Notice to the Family***

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's lease, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision and a statement of the deadline for the family to request an informal hearing.

#### *NHA Policy*

*In cases where the NHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:*

- *The proposed action or decision of the NHA.*
- *A brief statement of the reasons for the decision including the regulatory reference.*
- *The date the proposed action will take place.*
- *A statement of the family's right to an explanation of the basis for the NHA's decision.*
- *A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.*
- *A deadline for the family to request the informal hearing.*
- *To whom the hearing request should be addressed.*
- *An offer to provide a copy of the NHA's hearing procedures.*

#### ***Scheduling an Informal Hearing***

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### *NHA Policy*

*A request for an informal hearing must be made in writing and delivered to the NHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the NHA's decision or notice to terminate assistance.*

*The NHA must schedule and send written notice of the informal hearing to the family within 20 business days of the family's request.*

*The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the NHA may request documentation of the "good cause" prior to rescheduling the hearing.*

*If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the NHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The NHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.*

### ***Pre-Hearing Right to Discovery***

Tenants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

#### **NHA Policy**

*The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of NHA documents no later than 12:00 p.m. two business days prior to the scheduled hearing date*

### ***Tenant's Right to Bring Counsel***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

### ***Informal Hearing Officer***

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

#### **NHA Policy**

*The NHA will designate an Agent of Management as Hearing Officers and will notify residents.*

### ***Attendance at the Informal Hearing***

#### **NHA Policy**

*Hearings may be attended by a hearing officer and the following applicable persons:*

- A NHA representative and any witnesses for the NHA*
- The tenant and any witnesses for the tenant*
- The tenant's counsel or other representative*

- *Any other person approved by the NHA as a reasonable accommodation for a person with a disability*

***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA’s hearing procedures. See Grievance Procedures Appendix A

***Evidence***

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. See Grievance Procedures Appendix A

***Hearing Officer’s Decision***

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. 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 hearing must be furnished promptly to the family. See Grievance Procedures Appendix A

***Procedures for Rehearing or Further Hearing***

See Grievance Procedures Appendix A

***PHA Notice of Final Decision***

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination. See Grievance Procedures Appendix A

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

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***

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for non-citizens must advise the family:

- 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 rent.

- In the case of a tenant, the criteria and procedures for obtaining relief and the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

**USCIS 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 the proof of mailing.

**NHA Policy**

*The NHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.*

*The family must provide the NHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.*

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the 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.

**NHA Policy**

*The NHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.*

**Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the 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 termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to tenant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

The informal hearing procedures for applicant families are described below.

***Informal Hearing Officer***

The PHA 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. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA 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.

#### **NHA Policy**

*The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page copy. The family must request discovery of NHA documents no later than 12:00 p.m. two business days 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 arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

#### **NHA Policy**

*The NHA will also follow any additional requirements as delineated in its LEP policy at Appendix D.*

### ***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.

#### **NHA Policy**

*The NHA will not provide a transcript of an audio taped hearing.*

### ***Hearing Decision***

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

#### **Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 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 an USCIS appeal

- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

#### **16.G. OVERVIEW PHAS**

The Public Housing Assessment Program (PHAS) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. PHAS scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual PHAS indicators, as well as overall PHAS ratings, can affect the PHA in several ways.

#### **16.H. OVERVIEW OF RECORD KEEPING**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and tenant files are maintained in a way that protects an individual's privacy rights.

#### **16.I. RECORD RETENTION**

During the term of each lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and tenants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

#### **16.J. RECORDS MANAGEMENT**

PHAs must maintain applicant and tenant files and information in accordance with the regulatory requirements described below.

##### ***NHA Policy See Appendix B***

*All applicant and tenant information will be kept in a secure location and access will be limited to authorized NHA staff.*

*NHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.*

*In addition, a family member may request privacy within the family for discussions, answering of questions and providing information. Where the NHA does not require that another family member review and confirm that information, such a request will be honored.*

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and tenants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law, including HIFA.

Applicants and tenants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

### **Enterprise Income Verification (EIV) (Upfront Income Verification (UIV)) Records**

PHAs that access EIV data through HUD's EIV System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Upfront Income Verification (UIV) System PHA Security Procedures*, Version 1.1, issued April 4, 2004.

#### [NHA Policy](#)

*See Appendix B "EIV Security Procedures".*

### **Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management which ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)]. PHAs are required to comply, on a case-by-case basis, with information requests from Federal, State or local law enforcement officers regarding possible fugitive felons and/or a parole or probation violators. The PHA must supply upon legitimate request (1) the current address, (2) Social Security number and (3) photograph (if applicable) of any recipient of assistance. A Federal, State or local enforcement officer must submit a request that is (1) written, (2) on law enforcement agency letterhead, and (3) is signed by the requesting officer and his or her immediate supervisor. The request for information must provide the name of the fugitive felon and/or parole or probation violator being sought and may include other personal information used for identification.

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

#### [NHA Policy](#)

*See Appendix E*

### **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. 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 should not place this information in the tenant file. The PHA should destroy the document.

**16.K. OVERVIEW REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels which are receiving public housing assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

**16.L. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

***NHA Policy***

*The NHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.*

**16.M. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving housing assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

In addition the PHA must keep any Disclosure Forms it has provided tenants along with the required Lead Hazard Information Pamphlet for a period of at least 3 years.

**CHAPTER 17: HOMEOWNERSHIP PROGRAMS**

Reserved

## **APPENDICES**

**Appendix A Grievance Procedures**

**Appendix B EIV Security Procedures**

**Appendix C Community Service Policy**

**Appendix D Limited English Proficiency Policy**

**Appendix E Criminal Offender Record Information Policy**

**Appendix F Pet Policy**

**Appendix G Transfer Policy**

**Appendix H Violence Against Women Act Policy**

**Appendix I Application for Placement on the Waiting List and Management of the Waiting List  
(Preliminary Application)**

**Appendix J Application for Admission to Housing (Full Application)**

**Appendix K Income, Exclusions and Assets**

**Appendix L Adjusted Income**

**Appendix M Truancy Policy**

**Appendix N Occupancy Standards**

**APPENDIX A: GRIEVANCE PROCEDURES**

ADOPTED      October 23, 2006  
Revised      **4/1/2010**

## **APPENDIX A: GRIEVANCE PROCEDURES**

**Effective Date: 4/1/2010**

### **I. Purpose and Scope:**

This Grievance Procedure is established to assure that Residents are afforded an opportunity for a hearing if the Resident disputes, within a reasonable time, any Management action or failure to act involving the Resident's lease or Management regulations which adversely affect the individual Resident's rights, duties, welfare, or status.

### **II. Applicability:**

- A. This Grievance Procedure shall be applicable to all individual grievances as defined in paragraph III.A. below, between a Resident and Management, except as provided in paragraph II.B. below.
  
- B. The Department of Housing and Urban Development (HUD), has issued a due process determination that the laws of the State of Connecticut provide a Resident with the opportunity for a hearing in court which provides the basic elements of due process (as defined in paragraph III.C below) before eviction from a dwelling unit. In accordance with that determination Management therefore excludes from this Grievance Procedure any Grievance concerning an eviction or termination of residency based upon:
  - 1) Any activity threatening the health, safety or the right to peaceful enjoyment of the premises of other Residents or Management employees;
  - 2) Any drug related criminal activity on or off such premises;
  - 3) Any violent criminal activity on or off the premises;
  - 4) Any activity resulting in a felony conviction; or
  - 5) Any activity exempted by HUD.

- C. This Grievance Procedure is not applicable to: (1) disputes between Residents not involving Management; (2) class grievances; or (3) the Section 8 Program. This Grievance Procedure is not intended as forum for initiating or negotiating policy changes between a group or groups of Residents and Management's Board of Commissioners.

### III. Definitions:

**For the purpose of this Grievance Procedure the following definitions are applicable:**

- A. Grievance – **"Grievance"** means any dispute which a Resident may have with respect to Management's action or failure to act in accordance with the individual Resident's lease or Management's regulations which adversely affect the individual Resident's rights, duties, welfare or status, except as excluded in Paragraph II above, or pursuant to the applicable Code of Federal Regulations, 24 C.F.R. §966.50, *et seq.*
- B. Complainant – **"Complainant"** means any Resident whose Grievance is presented to Management in accordance with paragraphs IV and V below.
- C. Elements of Due Process – **"Elements of Due Process"** shall mean an eviction action or termination of residency in a State or local court in which the following procedural safeguards are required:
1. Adequate notice to the Resident of the grounds for terminating the residency and for eviction;
  2. Opportunity for the Resident to examine all relevant documents, records, and regulations of Management prior to the trial for the purpose of preparing a defense;
  3. Right of the Resident to be represented by retained Counsel;

4. Opportunity for the Resident to refute the evidence presented by Management including the right to confront and cross examine witnesses and present any affirmative legal or equitable defense which the Resident may have; and
  5. A decision on the merits.
- D. Resident – “**Resident**” means any lessee or the remaining head of the household of any resident family under any public housing or affordable housing lease where the Housing Authority of the City of Norwalk is the owner of such unit.
- E. Management – “**Management**” means the Housing Authority of the City of Norwalk, also referred to as the “Housing Authority”, or its Legal Counsel.
- F. Hearing Officer – “**Hearing Officer**” means person selected in accordance with paragraph V of this Grievance Procedure to hear Grievances and render a decision with respect thereto.

### **Informal Settlement of Grievance:**

Any Grievance must be personally presented, either orally or in writing, to Management's Central Management Office, within ten (10) business days after the occurrence giving rise to the Grievance, so that the Grievance may be discussed informally and an attempt made to settle the Grievance without a hearing. Management at the time of presentation or within ten (10) business days after such presentation shall informally discuss the Grievance with the Complainant and his or her representative, if applicable. The Complainant shall be present to discuss the informal settlement of the grievance or shall be deemed to have waived this process. Within a reasonable time after presentation of the Grievance, a summary of the informal discussion shall be prepared by Management, and a copy thereof shall be provided to the Complainant, and a copy retained in Management's Resident file. The summary shall be in writing and shall specify the names of the participants in the discussion, the date of the discussion, the nature of the proposed disposition of the Grievance and specific reasons therefor, and shall specify the procedure by which

the Complainant may obtain a hearing if not satisfied by the proposed disposition of the Grievance.

#### **IV. Procedure to Obtain a Hearing.**

A. *A Request for Hearing* – If the Complainant is not satisfied with the results of the informal conference, the Complainant shall submit a written request for a hearing to the Central Management Office no later than ten (10) days after the date Complainant receives the summary of discussion pursuant to paragraph IV above.

The written request shall specify:

1. The reason(s) for the Grievance; and
2. The Action or relief sought.

B. *Selection of Hearing Officer* – Grievances shall be presented before a Hearing Officer promptly selected as follows:

The Hearing Officer shall be an impartial, disinterested person appointed by the Housing Authority, other than the person who made or approved the Housing Authority action under review or a subordinate of such person.. The Housing Authority may appoint any person (who may be an officer or employee of the Housing Authority) as the Hearing Officer. The Housing Authority shall consult the resident organizations before appointment of each hearing officer. Any comments or recommendations submitted by the tenant organizations shall be considered by the Housing Authority.

C. *Failure to Request A Hearing* – If the Complainant does not request a hearing in accordance with Paragraph V.A, then Management's disposition of the Grievance under Paragraph IV shall become final; provided that failure to request a hearing shall not constitute a waiver by the Complainant of the right thereafter to contest Management's action in disposing of the Grievance in an appropriate judicial proceeding.

- D. *Hearing Prerequisite* – All Grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed in paragraph IV as a condition precedent to a hearing under this Grievance Procedure; provided that if the Complainant shall show good cause for failing to proceed in accordance with paragraph IV to the Hearing Officer, the provisions of this paragraph V.D. may be waived by the Hearing Officer in their sole and absolute discretion.
  
- E. *Escrow Deposit* – Before a hearing is scheduled in any Grievance involving the amount of rent as defined in the dwelling lease which Management claims is due, the Complainant shall pay to Management an amount equal to the amount of the rent due and payable as of the first day of the month preceding the month in which the act or failure to act took place. The Complainant shall thereafter deposit the same amount of monthly rent in an escrow account monthly until the Grievance is resolved by decision of the Hearing Officer. These requirements may be waived by Management in extenuating circumstances. Unless so waived, the failure to make such escrow payments shall result in a termination of the Grievance Procedure; provided, that the failure to make the escrow payments shall not constitute a waiver of any right the Complainant may have to contest Management disposition of the Grievance in any appropriate judicial proceeding.
  
- F. *Scheduling of Hearings* – Upon Complainant's compliance with paragraphs V.A., V.D., and V.E. a hearing shall be scheduled by Management staff promptly for a time and place reasonably convenient to both the Complainant and Management. A written notification, specifying the time and place of the hearing shall be delivered to the Complainant and the Hearing Officer.

**V. Procedures Governing the Hearing:**

- A. The hearing shall be held before a Hearing Officer as appropriate.
  
- B. The Complainant shall be afforded a fair hearing, which shall include;
  - 1. The opportunity to examine before the hearing and, at the expense of the Complainant, to copy all documents, records and regulations of Management that are relevant to the hearing. Any

document not so made available after request therefor by the Complainant may not be relied on by Management at the hearing;

2. The right to be represented by counsel or other person chosen as a representative by the Complainant, and to have such representative make statements on the Complainant's behalf;
  3. The right to a private hearing unless the Complainant requests a public hearing;
  4. The right to present evidence and arguments in support of the Complainant's complaint, to present legal and/or equitable defenses, to controvert the evidence relied on by Management and to confront and cross-examine all witnesses on whose testimony or information Management relies; and
  5. A decision based solely and exclusively upon the facts presented at the hearing.
- C. The Hearing officer may render a decision without proceeding with the hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.
- D. If the Complainant or Management fails to appear in person at a scheduled hearing, the Hearing Officer may make a determination to postpone the hearing for a period not to exceed ten (10) business days or another date agreeable to both parties or make a determination that the party has waived the right to a hearing. Both the Complainant and Management shall be notified of the determination by the Hearing Officer . The determination shall not constitute a waiver of any right the Complainant may have to contest disposition of the Grievance in an appropriate judicial proceeding.
- E. At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and thereafter Management must sustain the burden of justifying Management action or failure to act against which the Grievance is described.

- F. The hearing shall be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by the Grievance may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer shall require Management, the Complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought as appropriate.
  
- G. Management may record the hearing but shall not be required to prepare a transcript of the hearing. The Complainant or Management may arrange, 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.

**VI. Decision of the Hearing Officer:**

- A. The Hearing Officer shall prepare a written decision, together with the reasons therefore, within a reasonable time after the hearing. A copy of the decision shall be sent to the Complainant and Management which shall retain a copy of the decision in the Resident's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by Management and made available for inspection by a prospective Complainant, his or her representative, or Hearing Officer.
  
- B. The decision of the Hearing Officer shall be binding on Management, which shall take all actions or refrain from any actions necessary to carry out the decision unless Management's Board of Commissioners has determined within sixty (60) business days after the date of the decision and promptly notified the Complainant of its determination that:
  - 1. The Grievance does not concern Authority action or failure to act in accordance with or involving the Complainant's lease or Management regulations, which adversely affect the Complainant's rights, duties, welfare or status.

2. The decision of the Hearing Officer is contrary to applicable Federal, State or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and Management.
- C. A decision by the hearing Officer or Board of Commissioners in favor of Management or which denies the relief requested by the Complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, any rights the Complainant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter

**VII. Management Eviction Action:**

If a Resident has requested a hearing in accordance with paragraph V on a Grievance involving a Management Notice of Termination of Residency (Pretermination Notice), Management may issue a notice to quit and/or summary process summons and complaint but shall not seek judicial adjudication of the matter until the grievance process has been terminated, i.e. the Hearing Officer issues its decision in the matter.

**VIII. Accommodation of Persons with Disabilities:**

A. *Accommodations of Persons Disabilities* – Management provides 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 Complainant is visually impaired, any notice to the Complainant which is required under this Grievance Procedure shall be in accessible format if management has been so notified.

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Curtis O. Law, Executive Director

**APPENDIX B EIV SECURITY PROCEDURES**

ADOPTED: November 3, 2006

## **APPENDIX B EIV SECURITY PROCEDURES**

### **ENTERPRISE INCOME VERIFICATION (EIV) & OTHER DATA COVERED BY THE PRIVACY ACT:**

EIV contains personal information concerning program participants (HCV & PH), which are covered by the Privacy Act<sup>1</sup> such as wage and income data about private individuals, as well as identifying name, address, social security number and employment information which must only be used to verify eligibility for participation in a HUD rental assistance program and to determine the level of assistance. Do not share information with governmental entities or anyone else that are not involved in the recertification process.

A PHA employee can be found guilty of a misdemeanor or felony if that employee knowingly and willfully discloses tenant records to an unauthorized party.

### **USER ACCOUNTS:**

User accounts for the EIV system are provided on a need-to-know basis; each user must have their own user ID and password. The system requires changed passwords every 21 days. Appropriate levels of approval and authorization are given. The EIV System Access Authorization HUD/PHA Form is used to request additions, deletions, or modifications of user accounts. All computer resources are monitored and audited.

1. All EIV system users shall be personally accountable for their actions while accessing the system. All users who have access to the EIV system have a current signed User Access Authorization form on file which is updated annually by December 31, and uses their own password.
  - A. Do not disclose passwords to other staff members, employees, or contractors.
  - B. Staff shall not override the authorized access levels by providing UIV data to others who have limited or no access to data.
2. A list of all EIV system users and their roles is maintained and reviewed the first month of each calendar quarter.
3. Users will be required to certify with HUD the first month of each quarter. If user account is not certified within 30 days access to EIV system will be denied.

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The complete text of the Privacy Act is available at <http://www.usdoj.gov/privstat.htm>

4. EIV users will only access EIV or other systems if HUD Form 9886 or equivalent consent form is on file for the household whose income information is being accessed.
5. Access rights will be added or revoked as appropriate.

#### **USERS ACCESSING INFORMATION:**

Computerized data must be afforded the same levels of protection given to paper documents or any other media that contains UIV data.

A. If an authorized user is viewing UIV data and an unauthorized user approaches the work area, the authorized user shall lessen the chance of inadvertent exposure of UIV data by minimizing or closing out the screen on which the UIV data is being displayed.

B. Always log-out of computer when not in use. Do not leave a computer unattended when access to sensitive data is possible. Activate a screen saver to protect access if computer is unattended.

#### **RESTRICTED AREAS:**

Access to areas where UIV data is maintained is limited even during work hours. File cabinets and storage facilities are labeled as CONFIDENTIAL and have working locks. Doors to the following offices have working locks: File room, PH office, HCV office and Director of Housing Operation's office. Any restricted area is clearly identified by the use of prominently posted signs or other indicators as well as maintain a log of authorized personnel which is updated the first month of each quarter.

#### **KEYS AND LOCKED ROOMS:**

The UIV data is maintained in a secure room or locked space. The designated staff maintains a key control log to track the inventory of keys available, the number of keys issued, and to whom the keys are issued. Covered data is in a locked space or office is locked (File/ Storage, PH, HCV, and Director's office) when unoccupied.

All employees who have been issued keys will complete a form acknowledging key receipt.

#### **PRINTED INFORMATION AND HARD COPIES:**

Users retrieve computer printouts as soon as they are generated so information is not left lying unattended in printers where unauthorized users may access them. To minimize the unauthorized interception of printed outputs from the EIV system:

1. There is a designated printer in HCV department for UIV data

2. The PH department printer is only used for admission purposes beyond UIV data.
3. UIV data is not to be copied.
4. There is a dedicated fax in a secure area for the transmission and receipt of sensitive data.
5. Data like, Social Security numbers, are not to be e-mailed without encryption.
6. When not in use, paper files are to be locked away from physical access.

#### **DESTROYING DATA:**

1. EIV data is destroyed as soon as it has served its purpose.
2. All EIV originals and other documents created in association with their use are shredded.
3. A log is maintained of all documents that are shredded including the name of the employee who conducted the disposal, the method of disposal, and the date of disposal.
4. The log of destroyed documents are to be maintained as prescribed by the Records Monitoring and Retention Procedure.

#### **SECURITY AWARENESS TRAINING:**

All EIV users will receive training at employment and annually thereafter. Training records will be maintained. Norwalk Housing Authority EIV Security Procedure will be provided to all system users.

#### **IMPROPER DISCLOSURES**

All evidence of unauthorized access or security violations shall be reported to the Security Officer, the Director of Information Technology in writing or via e-mail whether intentional or unintentional.

#### **QUALITY CONTROL:**

The Housing Operations Analyst is responsible for monitoring that the procedures above are implemented and followed accordingly.

He/she will check:

1. Doors to file room, PH office, HCV office, Director of Housing Operations' office.
2. File cabinets with confidential information.
3. Make sure the person assigned the keys has them in their control.
4. Unattended computer screens or that only person with access is at screen when information is available.
5. Files are locked away when not in use.
6. Information is properly disposed of and documented as such on log.

7. That information is not being retained for longer than necessary.
8. List of EIV users and roles updated quarterly.
9. HUD 9886 on file and completed accurately.
10. Rights revoked or terminated as appropriate.
11. Key control log updated quarterly.
12. Annual Security Awareness Training.

**APPENDIX C: COMMUNITY SERVICE POLICY**

ADOPTED:

## **APPENDIX C: COMMUNITY SERVICE POLICY**

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) added a new section to the United States Housing Act of 1937 (1937 Act). Section 12(c) of the Housing Act established the Community Service Requirement for residents of public housing. In compliance with the QHWRA and Section 12(c) of the 1937 Act, the Housing Authority of the City of Norwalk (NHA) in consultation with the Resident Advisory Board, in consultation with the Resident Advisory Board, has established a Community Service Requirement Policy for those residents residing in Public Housing.

The following residents are exempt from the Community Service Requirement:

- An individual that is blind or disabled, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is primary caretaker of such individual;
- Residents 62 years of age and older
- Is engaged in a work activity (as such term is defined in section 407(d) of the social security Act (42 U.S.C. 607), as in effect on and July 1, 1997);
- Meets the requirements for being exempted from having to engage in a work activity under the State program funded under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or
- Is in a family receiving assistance under a State program funded under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found in noncompliance with such program

Third party certification must be provided by the entity with whom the resident is working

Residents 18 years or older not exempt, as determined by NHA administration in conformance with HUD rules, shall perform eight (8) hours per month of approved community service and/or economic self-sufficiency activities. Residents' compliance will be verified monthly. If a resident has not fulfilled the community service/economic self-sufficiency requirement during the past year, the resident must enter into an agreement with NHA administration to comply with the requirement. If the resident does not enter into such agreement or does not comply with the stipulations in the agreement, the lease will not be renewed. The agreement must be signed by both NHA and resident before the expiration for the lease and must include additional hours of community service or economic self sufficiency activities to cure the past year's noncompliance.

NHA will determine which family members are subject to or exempt from the service requirement during the recertification of family. The exempt or nonexempt status of family members may change throughout the year and family members, at time of recertification, must sign an agreement stating that if the status changes, the family member must contact the appropriate staff person assigned to the family's recertification and inform them of the change. NHA staff will determine if the family member must enter into a community service or economic self sufficiency program and will notify resident of process and approved activities.

Approved Activities:

1. Non- sectarian or non-political activity referred to by the Voluntary Action Center of Norwalk
2. Attending the Learning Center with family child(ren) that are enrolled in Learning Center Programs
3. Attending the Learning Center at 20 West to utilize Plato software program
4. Chaperone-approved Learning Center field trips with children
5. Other activities that are approved by NHA Director of Housing Services

The Director of Housing Services will approve the activities that fulfill the community service/economic self-sufficiency requirements and will provide an updated list of approved activities to the NHA administration for dissemination to staff and residents.

**APPENDIX D: LIMITED ENGLISH PROFICIENCY**

ADOPTED:

## **APPENDIX D: LIMITED ENGLISH PROFICIENCY**

### **A. Background on Limited English Proficiency Requirements for Public Housing Agencies receiving federal funding**

On December 19th, 2003, the U.S. Department of Housing and Urban Development (HUD) issued guidance on its requirements for recipients of federal funding to address Limited English Proficiency (LEP). This guidance is the method through which HUD is passing through its obligations under Executive Order No. 131166, "Improving Access to Services for Persons with Limited English Proficiency."

The basis for Executive Order No. 13166 is Section 601 of Title VI of the Civil Rights Act of 1964 (Title VI), which provides that no person shall "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Section 602 authorizes and directs federal agencies that are empowered to extend federal financial assistance to any program or activity "to effectuate the provisions of [section 601]...by issuing rules, regulations, or orders of general applicability."

### **B. Covered Programs**

The following federally funded programs run by the Norwalk Housing Authority are subject to the requirement to address Limited English Proficiency:

- Federal Family Public Housing
- Federal Elderly/Disabled Public Housing
- Tenant-based Section 8
- Program Project-based Section 8 Program
- Family Self-Sufficiency (FSS) Program
- ROSS Program(s)
- Neighborhood Networks

### **C. Pass-through Requirements to Sub-recipients**

The obligation to address the requirements described in this Plan will be passed through as part of any contract with a vendor who provides program related administrative functions equivalent to those of the Authority (e.g. recertification of incomes or unit inspections) OR vendors who provide supportive services to program participants through grants funds provided by the Housing Authority (e.g. FSS Program administration, service coordinators).

Obligations to follow requirements in this Plan do not pertain to Section 8 landlords or to the program participants themselves. These individuals are program beneficiaries and not sub-recipients.

### **D. Agency Requirements for Periodic Analysis of Limited English Proficiency Barriers.**

The Guidance issued by HUD identified four (4) major questions that every recipient of HUD funds needs to answer. They are.

1. The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population?
2. The Frequency with Which LEP Individuals Come Into Contact With the Program?
3. The Nature and Importance of the Program, Activity, or Service Provided by the Program?
4. The Resources Available to the Recipient and Costs?

An LEP individual is one who either possesses no English language skills or self identifies as someone with a language impediment.

The Authority has conducted a baseline analysis using these questions and arrived at the parameters for the Language Assistance Plan (LAP) whose requirements are described in the following sections.

The Authority contacted the local school system requesting information on English proficiency barriers encountered by the school system in its interactions with students and their parents. Local language barriers present in the school system are viewed by the Authority as the best documentation of current language barriers in the general community.

Information provided by the school system is the best indicator of genuine impediments in our community rather than Census data although we recognize that HUD's Office of Fair Housing and Equal Opportunity (FHEO) relies on Census data despite its proven methodological weaknesses when it comes to issues of national origin. Census data is based on sampling and not absolute counts AND does not report out information on "Ability to Speak English by Language Spoken at Home for Populations 18 Years and Over" at the census tract or municipal level. Data on national origin is available at the Census tract or municipal level but the Census reports out household information that can be based on historic immigration status and not reflect the fully assimilated characteristics of the current household.

The Authority will review and update its analysis once every three years by contacting the local school system to determine if their most recent identification of specific language barriers has changed since the housing agency's last inquiry.

**E. Language Groups for whom specific actions by the Authority have been determined necessary to overcome language related barriers to program participation.**

Based upon our analysis, the following language group( s) have been identified as being present to a sufficient degree in our service area to require one or more mitigation actions by the Authority:

The Norwalk Board of Education does an annual survey of the languages spoken by the children in the Norwalk Public School system. There are five languages most commonly spoken in Norwalk, listed below are the languages spoken as well as the percentage of students who speak that language, they are as follows:

English, 70%

Spanish, 21%

Creole, 1.7%

Greek, 1.1%

French, 0.7%

**F. Strategies for overcoming language barriers for identified groups**

The language group listed has been determined to be present in our service area to a degree that some mitigation technique to overcome language barriers has been determined as necessary.

Language Group: Spanish

Mitigation Strategy(s)

1. Employing staff with specific language competencies as an essential job duty
2. Identification of Professional Interpreter Services available to come onsite
3. Interpreters available via phone

**G. Policy Statement on translation of Documents and List of Document Translated.**

The Authority has determined that it cannot afford to translate written program marketing, general information, or administrative forms into a specific language other than English given available resources provided by HUD for program administration. As a factor in this, the Housing Authority has determined this based on the difficulty of ensuring an accurate translation.

The strategy that the Norwalk Housing Authority employs is:

The Housing Authority sends out correspondence with the statement, “This is an important notice. Please have it translated.” in the five languages most commonly spoken.

**English** “*This is an important notice. Please have it translated.*”

**Spanish**, “*Este e’ un aviso importante. Sirvase mandarlo traducir.*”

**Creole**, “*Ca ce you bagay ki impotant. Fe yo traduit li pou ou sous ple.*”

**Greek**, “*Anto einai mia shmantikh eidopoihsh. Parakalw ton metafrazei.*”

**French**, “*C’est une annonce tres important. faite la traduction s’il vout plait.*”

Should non-HUD resources specifically targeted to address LEP issues become available on either a competitive or non-competitive basis the Authority will pursue access whenever logistically possible.

We will use any general information documents provided by HUD or any other governmental entity in the information packets provided to program applicants and program participants, when available subject to any acquisition cost issues. Our use of these items will be dependent upon their content being consist with our program policies and procedures.

The Authority will not translate any document that has an essential role as a formal program document and which may be evidentiary materials in a legal proceeding. This includes but is not limited to documents such as a lease, authorization to obtain information, verification forms, Housing Assistance Payment contracts, or any form that requires a certification under “pains and penalties of perjury” or for which misrepresentation of information could result in being charged, with a crime such as program fraud.

All Housing Authority correspondence that pertains to official business such as waiting list selection and application processing, annual and interim recertification, required attendance at a private conference or meeting, or an invitation to a public meeting or hearing will include the following statement in the language(s) that we have identified as a language group(s) requiring assistance in overcoming language barriers.

"This is important information. Please have it translated."

Further, for the purpose of Public Hearing and other official meetings conducted by the Housing Authority, as translation needs are indicated, the Housing Authority will provide Spanish translation services.

**APPENDIX E: CRIMINAL RECORDS POLICY**

ADOPTED: 1/9/08

**APPENDIX E: CRIMINAL RECORDS POLICY**

Norwalk Housing Authority employees may be designated to request and use Criminal Records (CR) only for purposes of evaluating applicants, tenants or other occupants added to households for the Authority's housing programs or any unauthorized occupants. Dissemination of CR for any other purposes or to individuals not involved in the tenant selection, re-examination or drug free housing process is expressly prohibited. To ensure that CR is handled in a lawful fashion, the Norwalk Housing Authority has adopted the following guidelines for handling CR:

1. Applicants will be informed in writing that CR will be obtained from the Local Police Department, and/or from the Connecticut Department of Public Safety Bureau of Identification and/or from the National Crime Information Center (NCIC).
2. CR will be obtained for all applicants and household members who are age 18 or older and other persons added to leases as authorized occupants.
3. Requests for CR shall not be made prior to the full application for admission to housing screening process.
4. Requests for and use of CR shall not have the purpose or effect of discrimination on the basis of race, religion, color, national or ethnic origin, ancestry, age, sex, handicap, sexual orientation, marital status, or source of income.
5. Employees in the following positions are authorized to submit a written request for the information on behalf of the Authority, being directly involved in the decision of an applicant's eligibility and are authorized to handle CR in the course of their duties:

- Executive Director
- Deputy Director
- Director of Admissions & Occupancy Department
- General Counsel
- Occupancy Specialists
- Admission Specialist
- Executive Secretary
- Administrative Secretary
- Housing Operations Secretary
- Public Housing Analyst

Employees in these positions shall sign an "agreement of non-disclosure".

6. CR will be kept in a confidential area.
7. CR will be destroyed when the applicant to whom it pertains has been housed. If an applicant has been deemed ineligible, the applicant's CR shall be destroyed (3) three years from the date of the rejection, or after all administrative and judicial proceedings concerning the rejection are exhausted, whichever is later.

8. No provisions of these guidelines shall be construed to prohibit dissemination of CR by the NHA in the course of an applicant, or tenant selection appeal or other administrative or judicial proceedings brought on by an applicant or tenant in which CR is relevant.

**APPENDIX F: PET POLICY**

ADOPTED:

## APPENDIX F PET POLICY

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) added a new section to the United States Housing Act of 1937 (1937 Act). Section 31 of the Housing Act established pet ownership requirements for residents of public housing other than developments designated for elderly or people with disabilities.

In compliance with the QHWRA and Section 31 of the 1937 Act, the Housing Authority of the City of Norwalk (NHA), in consultation with the Resident Advisory Board, has established a Pet Policy for those residents residing in Public Housing. This policy does not apply to Colonial Village. NHA will allow residents to own pets that reside within the Public Housing unit, provided that the resident has completed the following:

1. Head of Household contacts Occupancy Specialist in order to fill out Pet Application
2. If Pet Application is accepted, pay NHA a Pet Security Deposit and sign Lease Addendum. Such deposit will be \$100 and may be paid over a period of no more than 4 months. Security Deposit must be paid in full prior to pet moving into unit.

The NHA public housing residents, in accordance with 24 CFR Part 960, may own one or more pets, as detailed below, in a public housing dwelling, if the resident maintains each pet:

1. Responsibly
2. In accordance with applicable State and local public health, animal control and animal cruelty laws and regulations; and
3. In accordance with the policies established in PHA Annual Plan for the agency as provided in section 903 of 24 CFR.
4. Pets must be kept inside unit
5. No visiting pets are allowed
6. Extermination services are required for pet owners
7. Reasonable accommodations will be made for animals that assist the handicapped
8. Precautions are taken to prevent pets from disturbing neighbors
9. Designate a person who will be responsible of the pet in case of emergency or illness

The following are deemed allowable pets and must be approved by Occupancy Specialists:

1. Cats that are spayed or neutered and have all veterinarian shots. Relative documentation must be provided at the time of admissions or recertification.
2. Fish that are kept in a tank no larger than 25 gallons.
3. Residents who already own a fish tank larger than 25 gallons may keep it provided that they register it with the Housing Authority. There will be a 60- day period for registering fish tanks larger than 25 gallons.
4. Birds that are no larger than 8 inches long as an adult
5. Because dogs were allowed at Washington Village, there will be one window of opportunity for existing dogs that meet the size requirements to stay. There will be one 60-day period for registering

existing dogs. Dogs that are registered may not be replaced. There is a limit of one dog per household. The size limit for dogs to be registered is 40 pounds and no higher than 25 inches from the ground to the top of the head when standing. Dogs must not disturb others and must be fenced or leashed with an owner at all times. Owners must clean up after dogs immediately. All other pet rules and regulations must be followed.

There are to be no more than:

1. One cat per dwelling unit
2. One fish tank, not exceeding 25 gallons per dwelling unit
3. Two birds, kept in cage(s) per dwelling unit

NHA will issue a written notice for the pet removal if the pet owner violates a rule governing the owning or keeping of pets. The notice will give to the pet owner 10 calendar days for the pet removal. Failure to comply may result in initiation of procedures to terminate the pet owner's tenancy.

**APPENDIX G:TRANSFER POLICY**

ADOPTED:

## APPENDIX G: TRANSFER POLICY

### Preferences

Transfers to other dwelling units shall be made without regard to protected class status. NHA will give preference in filling vacant units to residents on the transfer list with the approval of the Deputy Director. This means that if there is a family on the transfer list that is appropriate for the size unit that is vacant, the first offer of the unit will be to a transferring family at the top of the transfer list.

No transfer request will be approved if the household is otherwise in default of the lease or other statutory obligation(s) and if the maximum number of transfers delineated in 9.C.2 has been reached.

Residents shall not be transferred to a dwelling unit of equal size either within a development or between developments, except for alleviating hardships, as outlined below.

If the offer of a particular unit made to a transferring family is refused for good reason as determined by the NHA, the NHA will move that family to the bottom of the waiting list, otherwise the family will be removed from the transfer wait list. Then a transfer offer will be made to the next family on the transfer list. No more than two offers will be made for a vacant unit.

A family may request a transfer for a move to another unit. The family will be placed on the respective transfer list, if it meets certain criteria as follows and will be processed in the following order of preference:

1. Emergencies as determined by the Executive Director or designee including:

- i. an uninhabitable unit due to the action or inaction of the NHA or
- ii. an 'act of God' disaster, or
- iii. ordered or a stipulated judgment by a Court or Law Enforcement Agency and as approved by the Executive Director, or
- iv. a barrier free unit occupied by a tenant who does not require the features and which are need by another tenant or an applicant being admitted,
- v. Due to a certified case of VAWA

1. Disability as per definitions in Chapter 2;
2. Medical Justification [non ADA] as verified by a doctor and determined by the Executive Director. If the NHA receives notice from a local rehabilitation hospital or nursing home that a resident cannot leave the hospital until a transfer is available, these transfer requests will receive priority over other medical transfer requests. Within these two medical categories, requests for transfers to units with similar features will be fulfilled by date of request. Transfers are offered in the same development. However, a resident could be transferred to another development if the following three conditions are met;
  - i. The resident cannot be released from the hospital until a transfer unit is available, i.e., there is a severe need,
  - ii. An available unit is identified at another development sooner than at the same development, and
  - iii. The resident is in agreement to change developments.
3. Under housing or over housing as determined by the Executive Director. Transfers

within developments shall be made to comply with occupancy guidelines. Transfers between developments may be made for families requiring different size units which do not readily exist within the developments, e.g., resident requires a four bedroom unit and lives in Development A, which has only one to three bedroom units. The resident may, therefore, be considered for a development containing four bedroom units. Residents occupying units that have become too large will be required to transfer within the development in which they reside. In the event that no suitable unit is available within the same development or is likely to become available in the near future, the resident will be transferred to an available unit in another development. The Occupancy Guidelines contained in this Plan will be used to determine when units are underutilized. If the family is over-housed and refuses the transfer offer, legal action will be taken to terminate the lease of the family. If the family includes a child or children temporarily absent from the home due to placement in foster care, NHA 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 one hundred and eighty (180) days from the date of removal of the child(ren), the unit size will be reduced. If all children are removed from the home permanently, the unit size will be reduced in accordance with NHA's Occupancy Guidelines.

4. Administrative reasons determined by the PHA (e.g., to permit modernization work, demolition and disposition.

Within each preference group, the elderly may request a transfer only to an elderly development.

### **Other Conditions**

No transfers shall be made between federal Family programs and other programs.

If the family requests a move to another unit and has a repayment agreement in place for the payment of a claim and the repayment agreement is not in arrears, the family will be required to pay the balance in full prior to transfer. If the family repays the past due amount they will be permitted to move.

No transfer to another unit will be offered by the NHA until the maintenance staff have inspected the unit and determined it to be acceptable.

Elderly residents occupying units in a family development will be given preference when a vacancy exists in an elderly development. In order to receive a preference, the elderly resident must apply for a transfer in writing.

Adult children of the Resident who live with the Resident and have their own children will be required to file an application in order to receive their own unit. An adult child of a resident will not be transferred to his or her own unit. The entire household may be transferred to a larger unit based on the Occupancy Guidelines described herein.

Families will not be permitted to request a transfer to a different unit more than once in a 12-month period. The above restrictions apply to a move within the same building or project or between buildings as well as other moves.

A maximum of 3 transfer offers can be made in a single month and maximum of 30 in a year.

### **Notice Requirements**

If a family intends to request a transfer, it must provide to the Director of Housing Operations a written request for transfer along with the necessary documentation. If the family has not been recertified within the last 90 days, the Occupancy Specialist will conduct a re-examination process prior to transfer. [The Occupancy Specialist will then conduct an examination of the transfer request and documentation for justification and make a determination. This will then be reviewed and approved by the Director of Housing Operations. This documentation process will not occur in those cases where the original transfer was requested by the NHA because of changes in family composition].

If the family is transferred to a new unit in a different development of the NHA, the family must go through the normal move in process, which includes the execution of a new lease.

**APPENDIX H VIOLENCE AGAINST WOMEN ACT POLICY**

Adopted: February 12, 2007

## APPENDIX H VIOLENCE AGAINST WOMEN ACT POLICY

### **PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162]**

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission or termination of assistance to an otherwise qualified applicant/tenant on the basis that the applicant/tenant is or has been a victim of domestic violence, dating violence, or stalking.

Specifically, Section 607 of VAWA amends the Public Housing Program to state:

that an individual's status as a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by a public housing authority. It also states that incidents of domestic violence, dating violence and stalking shall not be good cause for terminating a lease held by the victim. The amendments specify that the authority of a PHA to evict or terminate perpetrators of abuse shall not be limited and gives the PHA the ability to bifurcate a lease to maintain the victim's tenancy while evicting the perpetrator. Victims must certify their status as victims by presenting appropriate documentation to the PHA, and the language clarifies that victims can be evicted for lease violations or if their tenancy poses a threat to the community.

#### **Definitions**

As used in VAWA:

- The term domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
  - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
  - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.
- The term *immediate family member* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or

- Any other person living in the household of that person and related to that person by blood and marriage.

## **NOTIFICATION TO TENANTS**

VAWA requires the PHA to notify public housing program tenants of their rights under this law, including their right to confidentiality and the limits thereof.

### PHA Policy

NHA will provide all tenants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the tenant of NHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

NHA will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA.

## **NOTIFICATION TO APPLICANTS**

### PHA Policy

NHA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of NHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

NHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA.

## **RESTRICTIONS FOR THE PHA**

VAWA prohibits the PHA from considering actual or threatened domestic violence, dating violence, or stalking *as a cause for terminating the tenancy, occupancy, or program assistance of the victim.*

Specifically, this means that a PHA **may not** construe such violence or stalking:

1. as a serious or repeated violation of the lease by the victim
2. as other good cause for terminating the tenancy or occupancy rights of the victim
3. as criminal activity justifying the termination of the tenancy, occupancy rights, or program assistance of the victim.

However, VAWA also establishes a new way for public housing PHAs to deal with household members who engage in “criminal acts of physical violence against family members or others”: it gives them the authority to bifurcate a lease, or divide it into two parts, if permitted by state law.

## **Notification and Victim Documentation**

### PHA Policy

**APPLICANTS:** NHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under NHA’s policies.

Therefore, if NHA makes a determination to deny admission to an applicant family, NHA will

include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking.

**TENANTS:** When a family is facing assistance termination because of the actions of a tenant, household member, guest, or other person under the tenant's control and a tenant or immediate family member of the tenant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, NHA will require the individual to submit documentation affirming that claim.

The documentation must include two elements:

1. **A signed statement** (HUD Form 50066) by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, **and**
2. One of the following:
  - a. A police or court record documenting the actual or threatened abuse, or
  - b. A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The required certification and supporting documentation must be submitted to NHA within 14 business days after NHA issues a written notice to deny admission or terminate assistance. The applicant/tenant must submit the required documentation with her or his request for an informal review or must request an extension in writing at that time. If the applicant/tenant so requests, NHA will grant an extension of 10 business days, and will postpone scheduling the informal review until after it has received the documentation or the extension period has elapsed.

If after reviewing the documentation provided by the **applicant**, NHA determines the family is eligible for assistance, no informal review will be scheduled and NHA will proceed with admission of the applicant family.

If the **tenant** does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, NHA may proceed with assistance termination.

If NHA can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's tenancy is not terminated, NHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

## **Perpetrator Removal or Documentation of Rehabilitation**

### PHA Policy

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, NHA will proceed as above but will require, in addition, either

(a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit or

(b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.

If the family elects the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse.

The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same timeframe as the documentation required above from the victim.

### **PHA Confidentiality Requirements**

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure

(a) is requested or consented to by the individual in writing,

(b) is required for use in an eviction proceeding, or

(c) is otherwise required by applicable law.

**APPENDIX I: APPLICATION FOR PLACEMENT ON THE WAITING LIST AND  
MANAGEMENT OF THE WAITING LIST (PRELIMINARY APPLICATION)**

ADOPTED:

**APPENDIX I: APPLICATION FOR PLACEMENT ON THE WAITING LIST AND  
MANAGEMENT OF THE WAITING LIST (PRELIMINARY APPLICATION)**

**A. Application for Placement on the Waiting List**

**Application Package Contents:**

1. Housing Application
2. Birth Certificate or other proof of birth date which could be BC, passport or residency card if BC is not available
3. Proof of eligible immigrant status if app. is not a citizen.
4. Current Resident Alien Card
5. Social security cards or a letter stating that one has been applied for. This letter usually states the number that is assigned. (no exceptions)
- 6. Picture ID** for adult applicants
7. 3 documents that show your current place of residence

## **B. Documenting Changes to Waiting Lists**

### **Overview**

Whenever a change is made in the waiting list, an action is taken, or an activity specific to an applicant occurs, a notation must be made on the waiting list.

### **Providing an Auditable Record of Changes to Waiting Lists**

The goal of the annotation is to provide an auditable record of applicant additions, selections, withdrawals, and rejections. Independent reviewers looking at the waiting list should be able to:

- Find an applicant on the waiting list;
- Readily confirm that an applicant was housed at the appropriate time based on unit size needs, preferences, and income-targeting; and
- Trace various actions taken with respect to a family's application for tenancy.

### **Maintaining Documentation of the Waiting Lists**

The NHA has a method to maintain documentation of the waiting list composition, application status, and actions taken.

The NHA will periodically analyze their waiting list policies and documentation procedures to determine whether an independent party reviewing the list and its supporting documentation could follow the actions taken, applicable preferences and reasons why certain individuals may have been selected ahead of others on the waiting list. If not, the NHA will make the waiting list format and associated practices more transparent.

### **Maintaining Records for Electronic Waiting Lists**

The NHA maintains an electronic waiting list (instead of a manual property waiting list).

The electronic waiting list has a mechanism for maintaining the date and time of each applicant's placement on or selection from the waiting list and a way to document changes made to the list as follows:

- A data backup is used to record the time and date of entry of new applications and changes to existing records in the electronic waiting list.
- The system prints a record of the appearance of the waiting list as often as necessary (at least monthly) to show each applicant's placement on and selection from the list. The time and the date of the printout should appear on the report. The system can file this information in the central waiting list selection file.
- Whenever status changes occur, such as changes in family composition and unit size, the change should be recorded with an explanation, and the re-sorted list should be printed.
- To the extent possible, the system uses electronic safeguards, such as assigning waiting list password access only to individuals responsible for maintaining the system. The system records the user name and the time, date, and action entered whenever a record is changed or entered in the electronic waiting list.

### **Updating Waiting List Information**

The NHA will update the waiting lists annually to ensure that applicant information is current and that any names that should no longer be on the list are removed.

If the household composition changes, the NHA will update the waiting list information and decide whether the household needs the same or a different unit size. The NHA's written policy will determine if the family maintains the original application date or if the place on the waiting list is based on the date of the new determination of family composition.

The NHA will establish occupancy standards as part of the property's tenant selection plan and consistently apply those standards in assigning unit size to applicants.

**APPENDIX J: APPLICATION FOR ADMISSION TO HOUSING**  
**FULL APPLICATION**

Adopted:

## **APPENDIX J: APPLICATION FOR ADMISSION TO HOUSING (FULL APPLICATION)**

### **Full Application for Admission to Housing**

#### **Application Package Contents:**

1. Housing Admissions Application
2. Birth Certificate or other proof of birth date which could be passport or residency card if birth certificate is not available
3. Proof of eligible immigrant status if applicant is not a citizen.
4. Social security cards or a letter stating that one has been applied for. This letter usually states the number that is assigned. (no exceptions)
5. Income information from all members who receive income
6. Child care expense where allowed.
7. Police report and consent form for each member over 18
8. Child care expense where allowed.
9. Police report and consent form for each family member over 18
10. Special Unit Request for accommodation
11. Copies of report cards for all school aged children
12. Eligibility will be determined pending verification of your information for all family members 18 years or older which will include but is not limited to:
  - a. Credit evaluation
  - b. Drug testing
  - c. Home inspection of current residence
  - d. Police reports

**APPENDIX K: INCOME, EXCLUSIONS AND ASSETS**

Adopted:

**APPENDIX K**  
**ELEMENTS OF EARNED INCOME, EXCLUSIONS AND ASSET INCOME**

**Calculating Income—Elements of Annual Income**

**Income of Adults and Dependents**

Adults. Count the annual income of the head, spouse or co-head, and other adult members of the family. In addition, persons under the age of 18 who have entered into a lease under state law are treated as adults, and their annual income must also be counted. These persons will be either the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

**NOTE:** If an emancipated minor is residing with a family as a member other than the head, spouse, or co-head, the individual would be considered a dependent and his or her income handled in accordance with subparagraph 3 below.

Dependents. A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student. The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents is counted and some is not.

*Earned* income of minors (family members under 18) is not counted.  
Benefits or other *unearned* income of minors is counted.

- When more than one family shares custody of a child and both families live in assisted housing, only one family at a time can claim the dependent deduction. The family that counts the dependent deduction also counts the unearned income of the child. The other family claims neither the dependent deduction nor the unearned income of the child.
- When full-time students who are 18 years of age or older are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family or spouse or co-head. If the income is less than \$480 annually, count all the income. If the annual income exceeds \$480, count \$480 and exclude the amount that exceeds \$480.
- The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors.
- All income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
- Payments received by the family for the care of foster children or foster adults are *not* counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.
- Adoption assistance payments in excess of \$480 are not counted.

**Income of Temporarily Absent Family Members**

The NHA must count all income of family members approved to reside in the unit, even if some members are temporarily absent.

If the NHA determines that an absent person is no longer a family member, the individual must be removed from the lease and the HUD-50059.

A temporarily absent individual on active military duty must be removed from the family, and his or her income must not be counted unless that person is the head of the family, spouse, or co-head.

However, if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head, or spouse of the head of the family.

The income of the head, spouse, or co-head will be counted even if that person is temporarily absent for active military duty.

### **Examples – Income of Temporarily Absent Family Members**

John Chouse works as an accountant. However, he suffers from a disability that periodically requires lengthy stays at a rehabilitation center. When he is confined to the rehabilitation center, he receives disability payments equaling 80% of his usual income.

During the time he is not in the unit, he will continue to be considered a family member. The owner will conduct an interim recertification. Even though he is not currently in the unit, his total disability income will be counted as part of the family's annual income.

Mirna Martinez accepts temporary employment in another location and needs a portion of her income to cover living expenses in the new location. The full amount of the income must be included in annual income.

Charlotte Paul is on active military duty. Her permanent residence is her parents' assisted unit where her husband and children live. Charlotte is not currently exposed to hostile fire. Therefore, because her spouse and children are in the assisted unit, her military pay must be included in annual income. (If her dependents or spouse were not in the unit, she would not be considered a family member and her income would not be included in annual income.)

### **Income of Permanently Confined Family Members**

An individual permanently confined to a nursing home or hospital may not be named as family head, spouse, or co-head but may continue as a family member at the family's discretion. The family's decision on whether or not to include the permanently confined family member as a family member determines if that person's income will be counted.

*Include* the individual as a family member and the income and allowable deductions related to the medical care of the permanently confined individual are counted; or

*Exclude* the individual as a family member and the income and allowances based on the medical care of the permanently confined individual are not counted.

If the family elects to include the permanently confined member, the individual is listed on the HUD-50059 as an adult who is not the head, spouse, or co-head, even when the permanently confined family member is married to the person who is or will become the head of the family.

The NHA should consider extenuating circumstances that may prevent the confined member from being able to sign the HUD-50059. If the NHA determines the confined member is unable to sign the HUD-50059, the NHA must document the file why the signature was not obtained. If the family elects not to include the permanently confined member, the individual would not be listed on the HUD-50059.

### **Educational Scholarships or Grants**

All forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income except for students receiving

Section 8 assistance. This is true whether the assistance is paid to the student or directly to the educational institution

For students receiving Section 8 assistance, all financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income except if the student is over the age of 23 with dependent children or the student is living with his or her parents who are receiving Section 8 assistance.

#### **Alimony or Child Support**

The NHA must count alimony or child support amounts awarded by the court unless the applicant certifies that payments are not being made *and* that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment.

The NHA may accept printouts from the court or agency responsible for enforcing support payments, or other evidence indicating the frequency and amount of support payments actually received.

Child support paid to the custodial parent through a state child support enforcement or welfare agency may be included in the family's monthly welfare check and may be designated in different ways. In some states these payments are not identified as separate from the welfare grant. In these states, it is important to determine which portion is child support and not to count it twice. In other states, the payment may be listed as child support or as "pass-through" payments. These amounts must be counted as annual income. When no documentation of child support, divorce, or separation is available, either because there was no marriage or for another reason, the NHA may require the family to sign a certification stating the amount of child support received.

#### **Regular Cash Contributions and Gifts**

The NHA must count as income any regular contributions and gifts from persons not living in the unit. These sources may include rent and utility payments paid on behalf of the family, and other cash or non-cash contributions provided on a regular basis.

#### **Examples – Regular Cash Contributions**

- The father of a young single parent pays her monthly utility bills. On average he provides \$100 each month. The \$100 per month must be included in the family's annual income.
- The daughter of an elderly tenant pays her mother's \$175 share of rent each month. The \$175 value must be included in the tenant's annual income.

Groceries and/or contributions paid directly to the childcare provider by persons not living in the unit are excluded from annual income.

Temporary, nonrecurring, or sporadic income (including gifts) is not counted.

#### **Income from a Business**

When calculating annual income, the NHA must include the net income from operation of a business or

profession including self-employment income. Net income is gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis.

In addition to net income, the NHA must count any salaries or other amounts distributed to family members from the business, and cash or assets withdrawn by family members, except when the withdrawal is a reimbursement of cash or assets invested in the business.

When calculating net income, the NHA must not deduct principal payments on loans, interest on loans for business expansion or capital improvements, other expenses for business expansion, or outlays for capital improvements.

If the net income from a business is negative, it must be counted as zero income. A negative amount must not be used to offset other family income.

#### **Periodic Social Security Payments**

Count the gross amount, before deductions for Medicare, etc., of periodic Social Security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support.

#### **Adjustments for Prior Overpayment of Benefits**

If an agency is reducing a family's benefits to adjust for a prior overpayment (e.g., social security, SSI, TANF, or unemployment benefits), count the amount that is actually provided after the adjustment.

#### **Example – Adjustment for Prior Overpayment of Benefits**

Lee Park's social security payment of \$250 per month is being reduced by \$25 per month for a period of six months to make up for a prior overpayment. Count his social security income as \$225 per month for the next six months and as \$250 per month for the remaining six months.

#### **Periodic Payments from Long-Term Care Insurance, Pensions, Annuities, and Disability or Death Benefits**

The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. (See subparagraph below for information on the withdrawal of cash or assets from an investment.) Payments such as Black Lung Sick Benefits, Veterans Disability, and Dependent Indemnity Compensation for the Widow of a Killed in Action Serviceman are examples of such periodic payments.

Withdrawals from retirement savings accounts such as Individual Retirement Accounts and 401K accounts that are not periodic payments do not fall in this category and are not counted in annual income .

#### **Example – Withdrawals from IRAs or 401K Accounts**

Isaac Freeman retired recently. He has an IRA account but is not receiving periodic payments from it because his pension is adequate for his routine expenses. However, he has withdrawn \$2,000 for a trip with his children. The withdrawal is not a periodic payment and is not counted as income.

If the tenant is receiving long-term care insurance payments, any payments in excess of \$180 per day

must be counted toward the gross annual income.

(NOTE: Payment of long-term care insurance premiums are an eligible medical expense)

Federal government pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are not counted as annual income. The state court has, in the settlement of the parties' marital assets, determined the extent to which each party shares in the ownership of the pension. That portion of the pension that is ordered by the court (and authorized by the Office of Personnel Management (OPM), to be paid to the applicant's/tenant's former spouse is no longer an asset of the applicant/tenant and therefore is not counted as income. However, any pension funds authorized by OPM, pursuant to a court order, to be paid to the former spouse of a Federal government employee is counted as income for a tenant/applicant receiving such funds.

**Example:** Joan Carson is a retired Federal government employee receiving a retirement pension. She is also the recipient of Section 8 housing assistance and involved in a divorce proceeding. In settling the assets of the marriage between Mrs. Carson and her former husband, the court ordered that one half of her pension be paid directly to her former husband in the amount of \$20,000. The court provided OPM with clear, specific and express instructions acceptable for OPM to process the payment to Mrs. Carson's former husband. OPM authorized the payment of pension benefits to Mrs. Carson's former husband in the amount of \$20,000. The \$20,000 represents an asset disposed of as a result of a court decree. At the interim reexamination of her income, Mrs. Carson indicated a change in her income due to the court ordered payment of pension benefits to her former husband. The PHA requested that Mrs. Carson provide a copy of her statement from OPM evidencing the payment of pension benefits to her (her statement reflected the line item payment to her former husband due to the court order). That portion of the pension paid to her former husband no longer belongs to Mrs. Carson and is not counted as income.

The OPM is responsible for handling court orders (any judgments or property settlements issued by or approved by any court of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, The Northern Mariana Islands, or the Virgin Islands in connection with the divorce, annulment of marriage, or legal separation of a Federal government employee or retiree) affecting current and retired Federal government employees. See 5 C.F.R. § 838.103. OPM must comply with court orders, decrees, or court-approved property settlement agreements in connection with divorces, annulments of marriage, or legal separations of employees that award a portion of the former Federal government employee's retirement benefits. Id. at § 838.101(a)(1). State courts ordering a judgment or property settlement in connection with divorce, annulment of marriage, or legal separation have the responsibility of issuing clear, specific, and express instructions to OPM with regards to providing benefits to former spouses. Id. at § 838.122. In response to instructions from state courts, OPM will authorize payments to the former spouses. Id. at § 838.121. Once the payments have been authorized by OPM, the reduced pension amount paid to the retired Federal employee (the tenant/applicant) will be reflected in the tenant's/applicant's statement from OPM. Former spouses of Federal government employees receiving court ordered pension benefits are provided a Form-1099 reflecting pension benefits received from the retired Federal government employee. In verifying the income of tenants/applicants, owners should require that tenants/applicants provide any copies of statements from OPM verifying pension benefits (including any reductions pursuant to a court order, decree or court-approved property settlement agreement), and any evidence of survivor benefits, pensions or annuities received from retired Federal government employees including, but not limited to, a Form-1099. (See Paragraph 5-7.G.5 for more information on the treatment of income from Federal government pensions.)\*\*

**Income from Training Programs**

Amounts received under HUD-funded training programs are excluded from annual income.

Incremental earnings and benefits received by any family member due to participation in qualifying state or local employment training programs are excluded.

Income from training programs not affiliated with a local government, and income from the training of a family member resident to serve on the management staff, is also excluded.

Excluded income must be received under employment training programs with clearly defined goals and objectives and for a specific, limited time period. The initial enrollment must not exceed one year, although income earned during extensions for additional specific time periods may also be eligible for exclusion.

Training income may be excluded only for the period during which the family member participates in the employment training program.

Exclusions include stipends, wages, transportation or child care payments, or reimbursements. Income received as compensation for employment is excluded only if the employment is a component of a job training program. Once training is completed, the employment income becomes income that is counted.

Amounts received during the training period from sources that are unrelated to the job training program, such as welfare benefits, social security payments, or other employment, are not excluded.

**NOTE:** For Project Based Section 8 programs, the NHA may ask to use project funds or funds from the Residual Receipts account to underwrite all or a portion of the cost of developing, maintaining, and managing a job training program for project residents if funds are available.

The Field Office will make the determination if the job training program may be approved, and if project funds are sufficient to fund the job training program and maintain the physical and financial integrity of the project. Job training programs may be either on-site at the project or off-site. For example, job training programs that have partnerships with local colleges, community based organizations, or local business, may have in-house job training programs designed for project residents.

Funds that the NHA may choose to use to underwrite a job training program may include Section 8 funds, Community Development Block Grant funds, or housing authority funds. These funds may be used to cover the costs of various components of a job training program, including course materials, computer software, computer hardware, or personnel costs. Also, contractors and subcontractors, in connection with work performed under a Flexible Subsidy contract, may elect to hire project residents to perform certain skills required under the contract. If the employment of the project residents was pursuant to an apprenticeship program, this could constitute a training program using HUD funds, and income received by the tenants in the apprenticeship program will qualify as an exclusion from income.

### **Resident Services Stipends**

Resident services stipends are generally modest amounts of money received by residents for performing services such as hall monitoring, fire patrol, lawn maintenance, and resident management.

If the resident stipend exceeds \$200 per month, the NHA must include the entire amount in annual income.

If the resident stipend is \$200 or less per month, the NHA must exclude the resident services stipend from annual income.

**Income Received by a Resident of an Intermediate Care Facility for the Mentally Retarded or for the Developmentally Disabled (ICF/MR or ICF/DD) and Assisted Living Units in Elderly Projects**

An intermediate care facility is a group home for mentally retarded or developmentally disabled individuals (ICF/MR or ICF/DD). The term “intermediate care facility” is one used by state mental health departments for group homes serving these residents.

Assisted living units are units in projects developed for elderly residents with project-based assistance that have been converted to assisted living units.

The local agency responsible for Medicaid provides funds directly to group home operators and assisted living providers for services.

Annual income at an ICF/MR, ICF/DD, or assisted living unit must include:

- The SSI payment a tenant receives or the facility receives on behalf of the tenant; plus
- All other income the tenant receives from sources other than SSI that are not excluded from income by HUD regulations . Examples of other sources of income include wages, pensions, income from sheltered workshops, income from a trust, or other interest income.

The personal allowance of an individual residing in an ICF/MR or ICF/DD is not included in annual income. If the NHA is unable to determine the actual amount of the personal allowance, use \$30.

Annual income does not include the enhanced benefit portion of the SSI that is provided to pay for services.

In some instances, a resident’s SSI income may be reduced between annual re-examinations if the resident’s earnings exceed a specified amount. If this happens, the resident may request an interim re-examination.

**Withdrawal of Cash or Assets from an Investment**

The withdrawal of cash or assets from an investment received as periodic payments should be counted as income. Lump sum receipts from pension and retirement funds are counted as assets. If benefits are received through periodic payments, do not count any remaining amounts in the account as an asset.

**Lump Sum Payments Counted as Income**

Generally, lump sum amounts received by a family, such as inheritances, insurance settlements, or proceeds from sale of property are considered assets, not income.

When social security or SSI benefit income is paid in a lump sum as a result of deferred periodic payments, that amount is *excluded* from annual income.

Settlement payments from claim disputes over welfare, unemployment, or similar benefits may be counted as assets, but lump sum payments caused by *delays in processing* periodic payments for unemployment or welfare assistance are included as income.

How lump sum payments for delayed start of benefits are counted depends upon the following:

- When the family reports the change;
- When an interim re-examination is conducted; and
- Whether the family’s income increases or decreases as a result.

A lump sum payment resulting from delayed benefit income may be treated in either of the two ways.

- Lottery winnings paid in one payment are treated as assets.
- Lottery winnings *paid in periodic payments* must be counted as income.

Family member loses his/her job on October 19 and applies for unemployment benefits. The family receives a lump sum payment of \$700 in December to cover the period from 10/20 to 12/5 and begins to receive \$100 a week effective 12/6.

**Option A:** The owner processes one interim re-examination immediately effective 11/1 and a second interim after unemployment benefits are known.

	<u>10/1</u>	<u>11/1</u>	<u>12/1</u>	<u>1/1</u>	<u>2/1</u>
Monthly gross income	800	*0	*0	492**	492**
Monthly allowances (three minors x 480 / 12 months)	120	-	-	120	120
Monthly adjusted income	680	0	0	372	372
Total tenant payment (TTP)	204	25	25	25***	112***

\* The family's income is calculated at \$0/month beginning November 1, continuing until benefits actually begin and new income is calculated. TTP is set at the minimum rent.

\*\* Family's actual income for 1/1 is \$100/week x 52 weeks = \$5,200 / 12 = \$433.

However, because the family's TTP was calculated at zero income for the months of November and December (the period eventually covered by the \$700 lump sum payment), the annual income to be used in calculating monthly gross income should be as follows:

\$100/week benefit x 52 weeks = \$5,200 + \$700 lump sum payment = \$5,900 annual gross income/  
12 = \$492.

\*\*\* Increased rent does not start until 2/1 in order to give the family notice of rent increase.

**Option B:** The owner processes one interim re-examination after unemployment benefits are known.

	<u>10/1</u>	<u>11/1</u>	<u>12/1</u>	<u>1/1</u>	<u>2/1</u>
Monthly gross income	800	0/800*	0/800*	433*	433*
Monthly allowances (three minors x 480 / 12 Months)	120	120	120	120	120
Monthly adjusted income	680	0/680	0/680	313	313
Total tenant payment	204	204*	204*	94	94
Recalculated TTP	-	94***	94*	94	94
Rent credit (204 - 94=)	-	110	110	-	-

\* Family's actual income for 11/1 and 12/1 is zero, but because the owner does not process an interim re-examination, the family's TTP continues to be calculated using \$800 as monthly gross income. Beginning 1/1, monthly gross income is known to be \$100/week, or \$433/month.

\*\* The lump sum payment is taken into account by making the recertification retroactive to 11/1. Annual income is calculated as \$5,200 / 12 = \$433 monthly gross income.

\*\*\* TTP for November and December recalculated as \$433 monthly gross income and \$313 monthly adjusted income x .30 = 94 with credit or refund to family of \$110/month for each of these two months for difference between TTP paid of \$204 and recalculated TTP of \$94.

### Exclusions from Income

Many of the items listed as exclusions from annual income under HUD requirements are items that the

IRS includes as taxable income. Therefore, it is important for the NHA to focus specifically on the HUD program requirements regarding annual income.

Among the items that are excluded from annual income are the value of food provided through:

- The Meals on Wheels program, food stamps, or other programs that provide food for the needy;
- Groceries provided by persons not living in the household; and
- Amounts received under the School Lunch Act and the Child Nutrition Act of 1966, including reduced lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC).

#### **Examples – Income Exclusions**

- The Value of Food Provided through the Meals on Wheels Program or Other Programs Providing Food for the Needy. Jack Love receives a hot lunch each day during the week in the community room and an evening meal in his apartment. One meal is provided through the Meals on Wheels program. A local church provides the other. The value of the meals he receives is not counted as income.

Groceries provided by persons not living in the household. Carrie Sue Colby's mother purchases and delivers groceries each week for Carrie Sue and her two year old. The value of these groceries is not counted as income despite the fact that these are a regular contribution or gift.

Amounts Received Under WIC or the School Lunch Act. Lydia Jeffries' two children receive a free breakfast and reduced priced lunches at school every day through the Special Supplemental Food Program for Women, Infants and Children (WIC). The value of this food is not counted as income.

#### **Examples – Income Exclusions**

- Resident service stipends. Rich Fuller receives \$50 a month for distributing flyers for management. This amount is excluded from annual income.
- Deferred periodic payments of social security benefits. Germain Johnson received \$32,000 in deferred social security benefits following a lengthy eligibility dispute. This delayed payment of social security benefits is treated as an asset, not as income.
- Income from training programs. Jennifer Jones is participating in a qualified state-supported employment training program every afternoon to learn improved computer skills. Each morning, she continues her regular job as a typist. The \$250 a week she receives as a part-time typist is included in annual income. The \$150 a week she receives for participation in the training program is excluded in annual income.
- Earned Income Tax Credit refund payments. Mary Frances Jackson is eligible for an earned income tax credit. She receives payments from her employer each quarter because of the tax credit. These payments are excluded in annual income.

#### **Calculating Income from Assets**

Annual income includes amounts derived from assets to which family members have access.

### **What is Considered to Be an Asset?**

Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the *income* from that asset.

Some tenants have assets that are not earning interest. A quantity of money under a mattress is an asset: it is a thing of value that could be used to the benefit of the tenant, but under the mattress it is not producing income.

Some belongings of value are not considered assets. Necessary personal property is not counted as an asset. Exhibit 5-2 summarizes the items that are considered assets and those that are not.

### **Determining Income from Assets**

The calculation to determine the amount of income from assets to include in annual income considers both of the following:

- The total cash value of the family's assets; and
- The amount of income those assets are earning or could earn.

The rule for calculating income from assets differs depending on whether the total cash value of family assets is \$5,000 or less, or is more than \$5,000.

### **Determining the Total Cash Value of Family Assets**

To comply with the rule for determining the amount of income from assets, it is necessary to first determine whether the total "cash value" of family assets exceeds \$5,000.

The "cash value" of an asset is the market value less reasonable expenses that would be incurred in selling or converting the asset to cash, such as the following:

- Penalties for premature withdrawal;
- Broker and legal fees; and
- Settlement costs for real estate transactions.
- The cash value is the amount the family could actually receive in cash, if the family converted an asset to cash.

#### **Example – Calculating the Cash Value of an Asset**

A family has a certificate of deposit (CD) in the amount of \$5,000 paying interest at 4%. The penalty for early withdrawal is three months of interest.

$$\$5,000 \times 0.04 = \$200 \text{ in annual income}$$

$$\$200 / 12 \text{ months} = \$16.67 \text{ interest per month}$$

$$\$16.67 \times 3 \text{ months} = \$50.01$$

$$\$5,000 - \$50 = \$4,950 \text{ cash value of CD}$$

It is essential to note that a family is not required to convert an asset to cash. Determining the cash value of the asset is done simply as a calculation by the owner because it is a required step when determining income from assets under program requirements.

### Assets Owned Jointly

If assets are owned by more than one person, prorate the assets according to the percentage of ownership. If no percentage is specified or provided by a state or local law, prorate the assets evenly among all owners.

If an asset is not effectively owned by an individual, do not count it as an asset. An asset is not effectively owned when the asset is held in an individual's name, but (a) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.

Determining which individuals have ownership of an asset requires collecting as much information as is available and making the best judgment possible based on that information.

#### **Example – Determining the Cash Value of an Asset**

The “cash value” of an asset is the amount a family would receive if the family turned a noncash asset into cash.

The cash value is the market value—or the amount another person would pay to acquire the asset—less the cost to turn the asset into cash.

If a family owns real estate, it may be necessary to consider the family's equity in the property as well as the expense to sell the property.

To determine the family's equity, subtract amounts owed on the property from its market value:

Market value
- <u>Mortgage amount owed</u>
Equity in the property

Calculate the cash value by subtracting the expense of selling the property:

Equity
- <u>Expense of selling</u>
Cash Value

Juanita Player owns a rental house. The market value is \$100,000. She owes \$60,000. The cost to dispose of this house would be \$8,000. The owner would determine the cash value as follows:

Market Value	\$100,000
Mortgage amount	- <u>\$60,000</u>
	40,000
Cost of disposing of the asset (real estate commission, and other costs of sale)	- <u>\$8,000</u>
<b>Cash Value</b>	<b>\$32,000</b>

In some instances, but not all, knowing whose social security number is connected with the asset may help in identifying ownership. Owners should be aware that there are many situations in which a social security number connected with an asset does not indicate ownership and other situations where there is ownership without connection to a social security number.

Determining who has contributed to an asset or who is paying taxes on the asset may assist in identifying ownership.

#### **Examples – Jointly Owned Assets**

- Helen Wright is an assisted-housing tenant. She and her daughter, Elsie Duncan, have a joint savings account. Mother and daughter both contribute to the account. They have used the account for trips together and to cover emergency needs for either of them. Assume in this example that state law does not specify ownership. Even though either Helen Wright or Elsie Duncan could withdraw the entire asset for her own use, count Helen's ownership as 50% of the account.
- Jean Boucher's name is on her mother's savings account to ensure that she can access the funds for her mother's care. The account is not effectively owned by Jean and should not be counted as her asset.

**Calculating Income from Assets When Assets Total \$5,000 or Less**

If the total cash value of all the family's assets is \$5,000 or less, the actual income the family receives from assets is the amount that is included in annual income as income from assets.

**Calculating Income from Assets When Assets Exceed \$5,000**

When net family assets are more than \$5,000, annual income includes the greater of the following:

- Actual income from assets; or
- A percentage of the value of family assets based upon the current passbook savings rate as established by HUD. This is called *imputed* income from assets. The passbook rate is currently set at 2%.

To begin this calculation, first add the cash value of all assets. Multiply the total cash value of all assets by .02. The product is the "imputed income" from assets. Then, add the actual income from all assets. The greater of the imputed income from assets or the actual income from assets is included in the calculation of annual income.

Example – Use Actual Income from Assets When Total Net Family Assets are \$5,000 or Less

Type of Asset	Cash Value	Actual Yearly Income
<i>Certificate of Deposit</i>		
\$1,000	\$950	\$40
withdrawal fee \$50		
interest @ 4%		
<i>Savings Account</i>		
\$500	\$500	\$13
interest @ 2.5%		
<i>Stock</i>		
\$300	\$300	\$0
Not paying dividends		
<b>Total</b>	<b>\$1,750</b>	<b>\$53</b>

The total cash value of the family's assets is \$1,750. Therefore, the amount that is added to annual income as income from assets is the actual income earned or \$53.

### Example – Imputed Income from Assets

“Imputed” means “attributed” or “assigned.” Imputing income from assets is “assigning” an amount of income solely for the sake of the annual income calculation. The imputed income is not real income.

For example, money under a mattress is not earning income. If the money were put in a savings account it would earn interest. Imputed income from such an asset is the interest the money would earn if it were put in a savings account.

A family with cash under a mattress is not required to put the cash in a savings account; but when the owner is calculating income for a family with more than \$5,000 in assets, the owner must assign an amount that cash would earn if it were in a savings account.

### Example – Determining Income from Assets When Net Family Assets Exceed \$5,000

Type of Asset	Cash Value	Actual Yearly Income
<i>Checking Account</i> (non-interest bearing)	\$455	\$0
<i>Savings Account</i> (interest at 2.5%)	\$6,000	\$150
<i>Stocks</i> (not paying dividends this year)	\$3,000	\$0
Total	\$9,455	\$150

Total cash value of assets is greater than \$5,000. Therefore, it is necessary to compare the actual income from assets to the imputed income from assets.

The total cash value of assets (\$9,455) is multiplied by 2% to determine the imputed income from assets.

$$.02 \times \$9,455 = \$189$$

\$189 is greater than the actual income from assets (\$150).

In this case, therefore, the owner will add \$189 to the annual income calculation as income from assets.

### Calculating Income from Assets - Specific Types of Assets Trusts.

#### Explanation of trusts.

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries). A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Generally, the assets are invested for the benefit of the beneficiaries.

Trusts may be revocable or non-revocable. 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. When the creator sets up a non-revocable trust, the creator has no access to the funds in the account.

The beneficiary frequently will be unable to touch any of the trust funds until a specified date or event (e.g., the beneficiary's 21<sup>st</sup> birthday or the grantor's death). In some instances, the beneficiary may receive the regular investment income from the trust but not be able to withdraw any of the principal.

The beneficiary and the grantor may be members of the same family. A parent or grandparent may have placed funds in trust to a child. If the trust is revocable, the funds may be accessible to the parent or grandparent but not to the child.

#### How to treat trusts.

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.

Revocable trusts. If any member of the tenant family has the right to withdraw the funds in the account, the trust is considered to be an asset and is treated as any other asset. The cash value of the trust (the amount the family member would receive if he or she withdrew all that could be withdrawn) is added to total net assets. The actual income received is added to actual income from assets.

#### **Example – A Trust Accessible to Family Members**

Assez Charaf lives alone. He has placed \$20,000 in trust to his grandson to be available to the grandson upon the death of Assez. The trust is revocable, that is, Assez has control of the principal and interest in the account and can amend the trust or remove the funds at any time. In calculating Assez's income, the owner will add the \$20,000 to Assez's net family assets and the actual income received on the trust to actual income from assets.

Non-revocable trusts. If no family member has access to either the principal or income of the trust at the current time, the trust is not included in the calculation of income from assets or in annual income.

If only the income (and none of the principal) from the trust is currently available to a family member, the income is counted in annual income, but the trust is not included in the calculation of income from assets.

Non-revocable trust as an asset disposed of for less than fair market value. If a tenant sets up a non-revocable trust for the benefit of another person while residing in assisted housing, the trust is considered an asset disposed of for less than fair market value.

If the trust has been set up so income from the trust is regularly reinvested in the trust and is not paid back to the creator, the trust is calculated as any other asset disposed of for less than fair market value for two years and not taken into consideration thereafter.

**Example – Nonrevocable Trust As an Asset Disposed of for Less Than Fair Market Value**

Sarah Gordy placed \$100,000 in a nonrevocable trust for her grandson. Last year, the trust produced \$8,000, which was reinvested into the trust.

The trust is treated as an asset disposed of for less than fair market value for two years. (See paragraph 5.7 G.6.) No actual income from the trust is included in Sarah's annual income, but the value of the asset when it was given away, \$100,000, is included in net family assets for two years from the date the trust was established.

Non-revocable trust distributing income. When a tenant places an asset in a non-revocable trust but continues to receive income from the trust, the income is added to annual income and the trust is counted as an asset disposed of for less than market value for two years. Following the two-year period, the NHA will count only the actual income distributed from the trust to the tenant.

**Example – Nonrevocable Trust Distributing Income to the Creator/Tenant**

Reggie Bouchard has established a nonrevocable trust in the amount of \$35,000 that no one in the tenant family controls. Income from the trust is paid to Reggie. Last year, he received \$3,500.

The owner will count Reggie's actual anticipated income from the trust in next year's annual income.

Because the asset was disposed of for less than fair market value (see paragraph 5.7 G.6), the value of the asset given away, \$35,000, is counted as an asset disposed of for less than fair market value for two years.

Payment of principal from a trust. The beneficiary of a trust may receive funds from the trust in different ways. A beneficiary may receive the full value of a trust at one time. In that instance the funds would be considered a lump sum receipt and would be treated as an asset. A trust set up to provide support for a person with disabilities may pay only income from the trust on a periodic basis. Occasionally, however, a beneficiary may be given a portion of the trust principal on a periodic basis. When the principal is paid out on a periodic basis, those payments are considered regular income or gifts and are counted in annual income.

**Example – Payment of Principal Amounts from a Trust**

Jared Leland receives funds from a nonrevocable trust established by his parents for his support. Last year he received \$18,000 from the trust. The attorney managing the trust reported that \$3,500 of the funds distributed was interest income and \$14,500 was from principal. Jared receives a payment of \$1,500 each month (an amount that includes both principal and interest from the trust).

The owner will count the entire \$18,000 Jared received as annual income.

Special needs trusts.

A special needs trust is a trust that may be created under some state laws, often by family members for disabled persons who are not able to make financial decisions for themselves. Generally, the assets within the trust are not accessible to the beneficiary.

If the beneficiary does not have access to income from the trust, then it is not counted as part of income.

If income from the trust is paid to the beneficiary regularly, those payments are counted as income.

**Example – Special Needs Trust**

Daryl Rockland is a 55-year-old person with disabilities, living with his elderly parents. The parents have established a special-needs trust to provide income for their son after they are gone. The trust is not revocable; neither the parents nor the son currently have access to the principal or interest. In calculating the income of the Rocklands, the owner will disregard the trust.

Annuities.

Annuity facts and terms.

An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals.

Fixed annuities guarantee a certain payment amount, while variable annuities do not, but have the potential for greater returns.

A hybrid annuity (also called a combination annuity) combines the features of a fixed annuity and a variable annuity.

A deferred annuity is an annuity that delays income payments until the holder chooses to receive them. An immediate annuity is one that begins payments immediately upon purchase.

A life annuity continues to pay out as long as the owner is alive. A single-life annuity provides income benefits for only one person. A joint life annuity is issued on two individuals, and payments continue in whole or in part as long as either individual is alive.

Generally, a person who holds an annuity from which he or she is not yet receiving payments will also be earning income. In most instances, a fixed annuity will be earning interest at a specified fixed rate similar to interest earned by a CD. A variable annuity will earn (or lose) based on market fluctuations, as in a mutual fund.

Most annuities charge surrender or withdrawal fees. In addition, early withdrawal usually results in tax penalties.

Depending on the type of annuity and the current status of the annuity, the owner will need to ask different questions of the verification source, which will normally be the applicant or tenant's insurance broker.

Income after the holder begins receiving payments.

When verifying an annuity, owners should ask the verification source whether the holder of the annuity has the right to withdraw the balance of the annuity. For annuities without this right, the annuity is not treated as an asset.

Generally, when the holder has begun receiving annuity payments, the holder can no longer convert it to a lump sum of cash. In this situation, the holder will receive regular payments from the annuity that will be treated as regular income, and no calculations of income from assets will be made. \*\*

#### Calculations when an annuity is considered an asset.

When an applicant or tenant has the option of withdrawing the balance in an annuity, the annuity will be treated like any other asset. \*\*It will be necessary to determine the cash value of the annuity in addition to determining the actual income earned.

In most instances, an annuity from which payments have not yet been made is earning income on the balance in the annuity. A fixed annuity will earn income at a fixed rate in the same manner that a CD earns income. A variable annuity will earn (or lose) based on current market conditions, as with a mutual fund.

The NHA will need to verify with the insurance agent or other appropriate source:

- The right of the holder to withdraw the balance (even if penalties are involved).
- The basis on which the annuity may be expected to grow during the coming year.
- The surrender or early withdrawal penalty fee.
- The tax rate and the tax penalty that would apply if the family withdrew the annuity.

The cash value will be the full value of the annuity, less the surrender (or withdrawal) penalty, and less any taxes and tax penalties that would be due.

The actual income is the balance in the annuity times the percentage (either fixed or variable) at which the annuity is expected to grow over the coming year. (This money will be reinvested into the annuity, but it is still considered actual income.)

The imputed income from the asset is calculated only after the cash value of all family assets has been determined. Imputed income from assets is calculated on the total cash value of all family assets.

#### Lump sum receipts counted as assets.

Commonly, when a family receives a large amount of money, a lump sum payment, the family will put the money in a checking or savings account, or will purchase stocks or bonds or a CD. Owners must count lump sum payments received by a tenant as assets. Examples of lump sum payments include the following:

- Inheritances;
- Capital gains;
- Lottery winnings paid in one payment;
- Cash from the sale of assets;
- Insurance settlements (including health and accident insurance, workers compensation, and personal and property losses); and
- Any other amounts that are received in one-time lump sum payments.

### **Example – Calculating the Cash Value of an Annuity**

Rodrigo Ramirez, site manager at Fernwood Forrest, has interviewed Barbara Barstow, an applicant who reports holding an annuity from which she will not receive payments for another 15 years when she turns 65. The applicant could not provide any more detail on the annuity but did report the name, address, and phone number of her insurance agent.

Rodrigo called the insurance agent and faxed a copy of the applicant's approval for release of information. As a result, Rodrigo learned that the annuity is a fixed annuity, with a current value of \$20,400 earning interest at an annual rate of 4.5%. The applicant could withdraw the current balance in the account but would pay a surrender penalty of \$3,000. If the annuity is withdrawn, then the applicant will owe \$1,200 in tax penalties.

In this example, the important information for calculating cash value is the current value, \$20,400; the surrender fee, \$3,000; and the tax penalties, \$1,200. If the applicant withdrew the cash from the annuity, after paying the surrender fee and tax penalty, then the amount of cash received would be \$16,200.

The cash value, \$16,200, is recorded as an asset.

Rodrigo will also calculate the actual anticipated income on this asset:  $\$20,400 \times .045 = \$918$ .

A lump sum payment is counted as an asset only as long as the family continues to possess it. If the family uses the money for something that is not an asset—a car or a vacation or education—the lump sum must not be counted.

It is possible that a lump sum or an asset purchased with a lump sum payment may result in enough income to require the family to report the increased income before the next regularly scheduled annual re-examination. But this requirement to report an increase in income before the next annual re-examination would not apply if the income from the asset was not measurable by the tenant (e.g., gems, stamp collection).

### **Examples – Lump Sum Additions to Family Assets (One-Time Payment)**

- JoAnne Wettig won \$500 in the lottery and received it in one payment. Do not count the \$500 as income. At JoAnne's next annual recertification, she will report all of her assets.
- Mia LaRue, a tenant in a Section 8 property, won \$75,000 in one payment in the lottery. She buys a car with some of the money, and puts the remaining amount of \$24,000 in the bank. Mia receives her first bank statement and notices that the income on this asset is \$205 per month. She must report this increase in income because the family has experienced a cumulative increase in income of more than \$200 per month. (See paragraph 7-10 A.4 on rules for reporting interim increases in income.) The owner must perform an interim recertification and count the greater of the actual or imputed income on this asset (since the net family assets are greater than \$5,000).

**Balances held in retirement accounts.**

Balances held in retirement accounts are counted as assets if the money is accessible to the family member. For individuals still employed, accessible amounts are counted even if withdrawal would result in a penalty. However, amounts that would be accessible only if the person retired are not counted. IRA, Keogh, and similar retirement savings accounts are counted as assets, even though withdrawal would result in a penalty.

Include contributions to company retirement/pension funds:

- While an individual is employed, count only amounts the family can withdraw without retiring or terminating employment.
- After retiring or terminating employment, count as an asset any amount the employee elects to receive as a lump sum.
- Include in *annual income* any retirement benefits received through periodic payments.
- 

**Examples – Balances Held in an IRA or 401K Retirement Account**

- Jed Dozier’s 401K account balance is \$35,000. He is able to terminate his participation in the retirement plan without quitting his job, but if he did so he would lose a part of his employer’s contribution and would pay a penalty fee. The total cash he could withdraw, \$18,000, is the amount that is counted as an asset.

**Federal Government Pensions**

In instances where the applicant/tenant is a retired Federal government employee receiving a pension that is determined by a state court in a divorce, annulment of marriage, or legal separation proceeding to be a marital asset and the court provides OPM with the appropriate instructions to authorize OPM to provide payment of a portion of the retiree’s pension to a former spouse, that portion to be paid directly to the former spouse is not counted as income for the applicant/tenant. However, where the tenant/applicant is the former spouse of a retired Federal government employee, any amounts received pursuant to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation are reflected on a Form-1099 and is counted as income for the applicant/tenant.

**Mortgage or deed of trust.**

Occasionally, when an individual sells a piece of real estate, the seller may loan money to the purchaser through a mortgage or deed of trust. This may be referred to as a “contract sale.”

A mortgage or deed of trust held by a family member is included as an asset. Payments on this type of asset are often received as one combined payment **\*\*that\*\*** includes interest and principal. The value of the asset is the unpaid principal **\*\*as of the effective date of the certification.\*\*** Each year this balance will decline as more principal is paid off. The interest portion of the payment is counted as actual income from an asset.

Assets disposed of for less than fair market value. Applicants and tenants must declare whether an asset has been disposed of for less than fair market value at each certification and recertification. The NHA must count assets disposed of for less than fair market value during the two years preceding certification or recertification. The amount counted as an asset is the difference between the cash value and the amount actually received.

Any asset that is disposed of for less than its full value is counted, including cash gifts as well as property. To determine the amount that has been given away, the NHA must compare the cash value of the asset to any amount received in compensation.

However, the rule applies only when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than \$1,000.

**Examples – Assets of More or Less Than \$1,000 Disposed of for Less Than Fair Market Value**

- During the past two years, Alexis Turner donated \$300 to the local food bank, \$150 to a camp program, and \$200 to her church. The total amount she disposed of for less than fair market value is \$650. Since the total is less than \$1,000, the donations are not treated as assets disposed of for less than fair market value.
- Jackson Jones gave each of his three children \$500. Because the total exceeds \$1,000, the gifts are treated as assets disposed of for less than fair market value.

When the two-year period expires, the income assigned to the disposed asset also expires. If the two-year period ends in the middle of a recertification year, then the tenant may request an interim recertification to remove the disposed asset(s).

**Example – Asset Disposed of for Less Than Fair Market Value**

Margot Lundberg’s recertification will be effective January 1. On that date, it will be 18 months since she sold her house to her daughter for \$60,000 less than its value. The NHA will count income on the \$60,000 for only six months. (After six months, the two-year limit on assets disposed of for less than fair market value will have expired.)

Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce, or separation are not counted.

Assets placed in non-revocable trusts are considered as assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgements.

Applicants and tenants must sign a self-verification form at their initial certification and each annual re-examination identifying all assets that have been disposed of for less than fair market value or certifying that no assets have been disposed of for less than fair market value. The NHA needs to verify the tenant self certification only if the information does not appear to agree with other information reported by the tenant/applicant.

**Examples – Asset Disposed of for Less Than Market Value**

- (1) An applicant “sold” her home to her daughter for \$10,000. The home was valued at \$89,000 and had no loans secured against it. Broker fees and settlement costs are estimated at \$1,800.

\$89,000 Market value

- 1,800 Fees

\$87,200 Cash value

- 10,000 Sales price to daughter

\$77,200 Asset disposed of for less than fair market value

In this example, the asset disposed of for less than fair market value is \$77,200. That amount is counted as the resident’s asset for two years from the date the sale took place.

(The \$10,000 received from the daughter may currently be in a savings account or other asset or may have been spent. The \$10,000 will be counted as an asset if the applicant has not spent the money.)

- (2) A resident contributed \$10,000 to her grandson’s college tuition and gave her two granddaughters \$4,000 each to save for college.

\$10,000 College tuition gift

+ 8,000 Gift to granddaughters

\$18,000 Asset disposed of for less than fair market value

The \$18,000 disposed of for less than fair market value is counted as the tenant’s asset for two years from the date each asset was given away.

**APPENDIX L: ADJUSTED INCOME**

Adopted:

## APPENDIX L DETERMINING ADJUSTED INCOME

### Key Regulations

The key regulatory citation pertaining to Determining Adjusted Income 24 CFR 5.611.

### Key Requirements for Determining Adjusted Income

There are five possible deductions that may be subtracted from annual income based on allowable family expenses and family characteristics. The remainder, after these deductions are subtracted, is called adjusted income. Adjusted income is generally the amount upon which rent is based. See Section 4 of this chapter for information about specific rent calculation methods. This section focuses on the calculation of annual adjusted income. Before rent is calculated, annual adjusted income is converted to monthly adjusted income.

**Of the five possible deductions, three are available to any assisted family, and two are permitted only for elderly or disabled families.**

The three types of deductions available to any assisted family are:

- A deduction for dependents;
- A child care deduction; and
- A disability assistance deduction.

The two types of deductions permitted only for families in which the head, spouse, or co-head is elderly or disabled are:

- An elderly/disabled family deduction; and
- A deduction for unreimbursed medical expenses.

**NOTE:** A family may not designate a family member as head or co-head solely to become eligible for these additional benefits. The remaining member of a family who is not 62 or older or a person with disabilities is not eligible for these allowances.

### Calculating Adjusted Income

#### Dependent Deduction

A family receives a deduction of \$480 for each family member who is:

- Under 18 years of age;
- A person with disabilities; or
- A full-time student of any age.

Some family members may never qualify as dependents regardless of age, disability, or student status.

- The head of the family, the spouse, and the co-head may never qualify as dependents.
- A foster child, an unborn child, a child who has not yet joined the family, or a live-in aide may never be counted as a dependent.
- A full-time student is one who is carrying a full-time subject load at an institution with a degree or certificate program. A full-time load is defined by the institution where the student is enrolled.

**NOTE:** When more than one family shares custody of a child and both live in assisted housing, only one family at a time can claim the dependent deduction for that child. The family with primary custody or with custody at the time of the initial certification or annual recertification receives the deduction. If there is a dispute about which family should claim the dependent deduction, the NHA should refer to available documents such as copies of court orders or an IRS return showing which family has claimed the child for

income tax purposes.

### **Child Care Deduction**

Anticipated expenses for the care of children under age 13 (including foster children) may be deducted from annual income if all of the following are true:

- The care is necessary to enable a family member to work, seek employment, or further his/her education (academic or vocational).
- The family has determined there is no adult family member capable of providing care during the hours care is needed.
- The expenses are not paid to a family member living in the unit.
- The amount deducted reflects reasonable charges for child care.
- The expense is not reimbursed by an agency or individual outside the family.

Child care expenses incurred to permit a family member to work must not exceed the amount earned by the family member made available to work during the hours for which child care is paid.

When child care enables a family member to work or go to school, the rule limiting the deduction to the amount earned by the family member made available to work applies only to child care expenses incurred while the individual is at work. The expense for child care while that family member is at school or looking for work is not limited.

#### **Example – Child Care Deduction Separate Expenses for Time at Work and Time at School**

Bernice and Ernest have two children. Both parents work, but Bernice works only part-time and goes to school half time. She pays \$4.00 an hour for eight hours of child care a day. For four of those hours, she is at work; for four of them she attends school. She receives no reimbursement for her child care expense.

Her annual expense for child care during the hours she works is \$4,000. Her annual expense for the hours she is at school is also \$4,000. She earns \$6,000 a year. Ernest earns \$18,000.

The rule requires that Bernice's child care expense while she is working not exceed the amount she is earning while at work. In this case, that is not a problem. Bernice earns \$6,000 during the time she is paying \$4,000. Therefore, her deduction for the hours while she is working is \$4,000.

Bernice's expense while she is at school is not compared to her earnings. Her expense during those hours is \$4,000, and her deduction for those hours will also be \$4,000.

Bernice's total child care deduction is \$8,000 (\$4,000 + \$4,000). The total deduction exceeds the amount of Bernice's total earnings, but the amount she pays during the hours she works does not exceed her earnings.

If Bernice's child care costs for the hours while she works were greater than her earnings, she would not be able to deduct all of her child care costs.

Bernice is paying a total of \$8,000 in child care expenses. Of that expense, payments of \$4,000 cover the hours while she is in school; payments of \$4,000 cover the hours she works. If Bernice were earning \$3,500, her total child care deduction for the hours she works would be capped at the amount of money she earns. In this case, the total deduction would be \$7,500 (\$4,000 for expenses while she is in school plus \$3,500 of the amount she pays while she is working.)

Child care attributable to the work of a full-time student (except for head, spouse, co-head) is limited to not more than \$480, since the employment income of full-time students in excess of \$480 is not counted in the annual income calculation.

Child care payments on behalf of a minor who is not living in the applicant's household cannot be deducted.

Child care expenses incurred by two assisted households with split custody can be split between the two households when the custody and expense is documented for each household and the documentation demonstrates that the total expense claimed by the two households does not exceed the cost for the actual time the child spends in care.

**Deduction for Disability Assistance Expense**

Families are entitled to a deduction for unreimbursed, anticipated costs for attendant care and "auxiliary apparatus" for each family member who is a person with disabilities, to the extent these expenses are reasonable and necessary to enable any family member 18 years of age or older who may or may not be the member who is a person with disabilities to be employed.

**Examples – Eligible Disability Assistance Expenses**

The payments made on a motorized wheelchair for the 42-year-old son of the head of the family enable the son to leave the house and go to work each day on his own. Prior to the purchase of the motorized wheelchair, the son was unable to make the commute to work. These payments are an eligible disability assistance expense.

Payments to a care attendant to stay with a disabled 16-year-old child allow the child's mother to go to work every day. These payments are an eligible disability assistance expense.

This deduction is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds 3% of the family's annual income. However, the deduction may not exceed the earned income received by the family member or members who are enabled to work by the attendant care or auxiliary apparatus.

If the disability assistance enables more than one person to be employed, the owner must consider the combined incomes of those persons. For example, if an auxiliary apparatus enables a person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

**Example – Calculating a Deduction for Disability Assistance Expenses**

Head's earned income		\$14,500
Spouse's earned income	+ <u>\$12,700</u>	
Total income		\$27,200
Care expenses for disabled 15-year-old		\$3,850
Calculation:		\$3,850
(3% of annual income)		<u>- \$816</u>
Allowable disability assistance expenses		\$3,034

(NOTE: \$3,034 is not greater than amount earned by spouse, who is enabled to work.)

Auxiliary apparatus includes items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a sight-impaired person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work.

Include payments on a specially-equipped van to the extent they exceed the payments that would be required on a car purchased for transportation of a person who does not have a disability.

The cost of maintenance and upkeep of an auxiliary apparatus is considered a disability assistance expense (e.g., the veterinarian costs and food costs of a service animal; the cost of maintaining the equipment that is added to a car, but not the cost of maintaining the car).

If the apparatus is not used exclusively by the person with a disability, the owner must prorate the total cost and allow a specific amount for disability assistance.

In addition to anticipated, ongoing expenses, one-time nonrecurring expenses of a current resident for auxiliary apparatus may be included in the calculation of the disability assistance expense deduction after the expense is incurred. These expenses may be added to the family's total disability assistance expense either at the time the expense occurs through an interim recertification or in the rent calculation during the following annual re-examination.

Attendant care includes but is not limited to reasonable expenses for home medical care, nursing services, housekeeping and errand services, interpreters for hearing-impaired, and readers for persons with visual disabilities.

**Example – Calculating a Deduction When Disability Assistance Expenses Exceed Related Earnings**

Kenisha Prior, an individual with disabilities, lives with her mother Grace Prior. Her mother works full time. Kenisha works part time at the library. She requires a motorized wheelchair and special transportation to get to her job.

Grace Prior’s Income	\$24,000
Kenisha Prior’s Income	+ <u>5,000</u>
Total income	\$29,000
Disability Assistance Expense	\$8,000
(3% of annual income)	<u>- \$870</u>
	\$7,130

The \$7,130 exceeds the amount Kenisha earns. The disability assistance deduction, therefore, is limited to the amount earned by the person made available to work or, in this case, \$5,000.

When the same provider takes care of children and a disabled person over age 12, the owner must prorate the total cost and allocate a specific cost to attendant care. The sum of both child care and disability assistance expenses cannot exceed the employment income of the family member enabled to work.

**Example – Calculating Child Care and Disability Assistance Deductions**

Head’s earned income	\$8,300
Spouse’s earned income	+ <u>\$6,700</u>
Total income	\$15,000

The family has two children: a 10-year-old son and a 15-year-old son who is disabled. One care provider, who charges \$120 per week, cares for both sons. The care provider reports that the cost for caring for the 10-year-old is \$50 a week and the cost of care for the child with disabilities is \$70 a week.

Child care expense	\$50 x 52 =	\$2,600
Total disability assistance expense	\$70 x 52 =	\$3,640
Total disability assistance expense (\$3,640) less 3% of annual income (\$450) = \$3,190		
Child care deduction	\$2,600	
Disability assistance deduction	+ <u>\$3,190</u>	
Total deductions	\$5,790	

Total deductions when compared to earnings must not exceed employment earnings of \$6,700.

**Medical Expense Deduction**

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 years old or is a person with disabilities (elderly or disabled families).

If the family is eligible for a medical expense deduction, the NHA must include the unreimbursed medical expenses of all family members, including the expenses of non-elderly adults or children living in the

family.

Medical expenses include all expenses the family anticipates to incur during the 12 months following certification/recertification that are not reimbursed by an outside source, such as insurance.

The NHA may use the ongoing expenses the family paid in the 12 months preceding the certification/recertification to estimate anticipated medical expenses.

The medical expense deduction is that portion of total medical expenses that exceeds 3% of annual income.

<b>Example – Calculating the Medical Expense Deduction</b>			
Age of head	64	Annual income	\$12,000
Age of spouse	58	Total medical expenses	\$1,500
<u>Sample Calculation</u>			
		Annual income	\$12,000
			x .03
		3% of annual income	\$ 360
		Total medical expenses	\$1,500
			- \$360
		<i>Allowable</i> medical expenses	\$ 1,140

In addition to anticipated expenses, past one-time nonrecurring medical expenses that have been paid in full may be included in the calculation of the medical expense deduction \*\*for current tenants at an initial, interim or annual recertification. Past one-time nonrecurring medical expenses that have been paid in full are not applicable when calculating anticipated medical expenses at move-in. If the tenant is under a payment plan, the expense would be counted as anticipated.

There are two options for addressing one-time medical expenses. These expenses may be added to the family's total medical expenses either: (1) at the time the expense occurs, through an interim recertification, or (2) at the upcoming annual re-examination.

**NOTE:** If the one-time expense is added at an interim re-examination, it cannot be added to expenses at the annual re-examination.

The following example illustrates the two options. Tenants may use either option.

### Example – One-Time, Nonrecurring Medical Expenses

Maria and Gustav Crumpler had a total of \$2,932 in medical expenses last year (Year 1). Of this amount, \$932 covered Gustav’s gall bladder surgery; \$2,000 was for routine costs that are expected to re-occur in the coming year. The entire amount may be included in the Crumpler’s medical costs for the coming year (Year 2) despite the fact that the gall bladder surgery is a past event that is not likely to re-occur.

If, during the coming year (Year 2), the Crumplers experience additional one-time medical costs not anticipated at the annual recertification, they may request an interim recertification or wait for their next annual recertification (during Year 3) and ask for the unanticipated expenses to be included in the medical expense calculation for the following year.

The owner may wish to explain to residents that including past one-time medical expenses in an annual recertification rather than in an interim recertification will result in a rent reduction for a larger number of months.

For example, let us assume Maria has unanticipated dental surgery during Year 2 at a cost of \$3,550 six months after the annual recertification. The Crumpler’s current TTP is \$560; their annual income is \$25,000.

Annual income		\$25,000
Less elderly household deduction	-	\$400
Less allowable medical deduction (\$2,932 less 3% of \$25,000)		<u>- \$2,182</u>
Adjusted annual income		\$22,418
Adjusted monthly income		\$1,868
TTP		\$560

If the Crumplers request an interim recertification, the \$3,550 additional cost will lower their rent for 6 months; if they wait for their annual recertification, the cost of the dental surgery will affect their rent for 12 months.

Annual income		\$25,000
Less elderly household deduction	-	\$400
Less allowable medical deduction* (\$6,482 less 3% of \$25,000)		<u>- \$5,732</u>
Adjusted annual income		\$18,868
Adjusted monthly income		\$1,572
TTP		\$472

At the Crumplers’ current annual income, the large dental bill reduces rent by \$88.

**OPTION #1:** If the Year 2 rent is adjusted through an interim recertification, the Crumplers will save 6 months times \$88 or \$528.

**OPTION #2:** If the Crumplers wait until their annual recertification, the large bill will affect their rent for the 12 months of Year 3, and they will save twice as much, or \$1,056.

When a family is making regular payments over time on a bill for a past one-time medical expense, those payments are included in anticipated medical expenses. However, if a family has received a deduction for the full amount of a medical bill it is paying over time, the family cannot continue to count that bill even

if the bill has not yet been paid.

**Example – Medical Expense Paid over a Period of Time**

Ursula and Sebastian Grant did not have insurance to cover Sebastian's operation four years ago. They have been paying \$105 a month toward the \$5,040 debt. Each year that amount (\$105 x 12 months or \$1,260) has been included in their total medical expenses. A review of their file indicates that a total of \$5,040 has been added to total medical expenses over the four-year period. However, the Grants bring a current invoice to their annual recertification interview. Over the four-year period they have missed five payments and still owe \$525. Although they still owe this amount, the bill cannot be included in their current medical expenses because the expense has already been deducted.

Not all elderly or disabled applicants or participants are aware that their unreimbursed expenses for medical care are included in the calculation of adjusted income for elderly or disabled families. For that reason, it is important for owners to ask enough questions to obtain complete information about allowable medical expenses. The following list highlights some of the most common expenses that may be deducted.

- Services of doctors and health care professionals;
- Services of health care facilities;
- Medical insurance premiums or costs of an HMO;
- Prescription/nonprescription medicines that have been prescribed by a physician;
- Transportation to treatment;
- Dental expenses;
- Eyeglasses, hearing aids, batteries;
- Live-in or periodic medical assistance such as nursing services, or costs for an assistance animal and its upkeep;
- Monthly payments on accumulated medical bills;
- Medical care of a permanently institutionalized family member *if* his or her income is included in annual income; and
- Long-term care insurance premiums. The family member paying a long-term care insurance premium must sign a certification (\*\*see Sample Certification for Qualified Long-Term Care Insurance Expenses in Exhibit 5-4\*\*) that states the insurance is guaranteed renewable, does not provide a cash surrender value, will not cover expenses covered under Medicare, and restricts the use of refunds. The certification must be maintained in the family's occupancy file. (Paragraph 5-6 J.3 describes situations in which long-term care insurance payments must be included in annual income.)

Special calculation for families eligible for disability assistance and medical expense deductions.

If an elderly family has both unreimbursed medical expenses and disability assistance expenses, a special calculation is required to ensure that the family's 3% of income expenditure is applied only one time. Because the deduction for disability assistance expenses is limited by the amount earned by the person enabled to work, the disability deduction must be calculated before the medical deduction is calculated.

When a family has unreimbursed disability assistance expenses that are less than 3% of annual income, the family will receive no deduction for disability assistance expense. However, the deduction for

medical expenses will be equal to the amount by which the sum of both disability and medical expenses exceeds 3% of annual income.

If the disability assistance expense exceeds the amount earned by the person who was enabled to work, the deduction for disability assistance will be capped at the amount earned by that individual. When the family is also eligible for a medical expense deduction, however, the 3% may have been exhausted in the first calculation, and it then will not be applied to medical expenses.

When a family has both disability assistance expenses and medical expenses, it is important to review the collected expenses to be sure no expense has been inadvertently included in both categories.

**Elderly Family Deduction**

An elderly or disabled family is any family in which the head, spouse, or co-head (or the sole member) is at least 62 years of age or a person with disabilities. Each elderly or disabled family receives a \$400 family deduction. Because this is a “family deduction” each family receives only one deduction, even if both the head and spouse are elderly or disabled.

<b>Example – Special Calculation for Families Who Are Eligible for Disability Assistance and Medical Expense Deductions</b>	
The following is basic information on the family:	
Head (retired/disabled)—SS/pension income	\$16,000
Spouse (employed)—employment income	+ <u>\$4,000</u>
Total Annual Income	\$20,000
Total disability assistance expenses	\$500
Total medical expenses	\$1,000
<u>Step 1:</u> Determine if the disability assistance expenses exceed 3% of the family’s total annual income.	
Total disability assistance expenses	\$500
Minus 3% of total annual income	<u>-\$600</u>
	(\$100)
No portion of the disability expenses exceeds 3% of the annual income; therefore, the disability assistance deduction is \$0.	
<u>Step 2:</u> Calculate if the medical expenses exceed the balance of 3% of the family’s total annual income.	
Total medical expenses	\$1,000
Minus the balance of 3% of total annual income	<u>- \$100</u>
<b>Allowable medical expenses deduction</b>	<b>\$900</b>

**No Deduction for Alimony or Child Support Paid to a Person outside the Assisted Family**

There is no deduction for an amount paid to a person outside the assisted family for alimony or child support. Even if the amount is garnished from the wages of a family member, it must be included in annual income.

**Example – Child Support Garnished from Wages**

George Graevette pays \$150 per month in child support. It is garnished from his monthly wages of \$950. After the child support is deducted from his salary, he receives \$800. The owner must count \$950 as George's monthly income.

**APPENDIX M      TRUANCY POLICY**

ADOPTED:

8/17/2007

## APPENDIX M TRUANCY POLICY GRADES K-8

### **Truancy Prevention Policy**

- Unexcused absences will be defined by the Norwalk School System.
- The 1<sup>st</sup> through 3<sup>rd</sup> unexcused absences will be permitted. However, the parent/guardian will be notified via mail.
- After the 4<sup>th</sup> unexcused absence the student must enroll in a Learning Center (LC) program.

The parent/guardian will be contacted by the Director, Learning Center Programs. A meeting will be scheduled to review the requirements of the program, and determine the LC that the student will enroll in. The student must begin reporting to the LC no later than one week after the meeting unless there are extenuating circumstances that necessitate additional time.

Subsequent to enrolling in the LC the student must attend at least four times a week. The student will be excused from the requirement to participate in an LC program if they do not incur an additional unexcused absence for a three month period of time. However, if an unexcused absence should occur after the three month period the student will be required to participate in an LC program for the remainder of the school term.

If the student is enrolled in either an after school tutoring program or an academically based program at a non-NHA center, the parent/guardian must present the Director, Learning Center Programs with a letter from the center Director that specifically states the name and content of the program, the attendance requirements, and the duration of the program in order for the requirement to enroll at an NHA LC to be waived.

A failure to satisfy this requirement may result in the process moving to the ninth step.

- For the 5<sup>th</sup> through 6<sup>th</sup> unexcused absences a letter will be sent to the parent/guardian informing them of the repeated absences, and the parent/guardian will be required to perform LC based community service.

In addition to the letter, the parent/guardian will be contacted by the Director, Learning Center Programs. A meeting will be held to determine the schedule for the parent/guardian to either perform community service twice a week at the LC attended by the student, or complete home based activities on behalf of the LC if reporting to the LC is legitimately not feasible for reasons of their schedule. The activities will be determined by the Lead Coordinator at the LC in conjunction with the parent/guardian. After 3 months of community service, the parent/guardian will be excused from the requirement to perform community service at an LC program if the student does not incur an additional unexcused absence for a three month period of time. However, if an unexcused absence should occur after the three month period the student and parent/guardian will be required to participate in an LC program for the remainder of the school term.

A failure to satisfy the requirement may result in the process moving to the ninth step.

- After the 7<sup>th</sup> and 8<sup>th</sup> unexcused absences a second letter will be sent to the parent/guardian informing them of the absence history and the seriousness of the matter. A meeting will be scheduled with NHA family support staff after the seventh unexcused absence, and the family will subsequently be required to meet with a family support organization for assistance with student and family concerns.

The parent/guardian will be provided with referrals and required to pursue assistance within a one week period of time. The parent/guardian will subsequently be required provide verification to the Director, Learning Center Programs, that they met with a support organization (details of the meeting will not be required).

- After the 9<sup>th</sup> unexcused absence a third letter will be sent to the parent informing them of the repeated absences and proposed action by the NHA, as well as the consequences faced if the behavior does not change. The matter will also be addressed at a meeting with the Executive Director, NHA or his designee, which will be scheduled within one week of the notification.
- After the 10<sup>th</sup> unexcused absence, the parent will be required to meet with the Board of Commissioners to review the student's history of truancy. Subsequent to the meeting, the Board will determine the appropriate action to be taken, up to and including the termination of the family's lease with the NHA.

Note:

Students who move into the housing system, regardless of when this should occur, will be governed by the entire ten (10) step progressive discipline process for the remainder of the school year.

APPENDIX N: CREDIT CHECK RATING FORM

## NORWALK HOUSING AUTHORITY Credit Check Rating Form

Name of Applicant \_\_\_\_\_  
(If more than one adult family member, average scores)

Date of Evaluation: \_\_\_\_\_

Annual Income: \_\_\_\_\_ Total Debt: \_\_\_\_\_

	# of Accounts	Points Each	Total Points	Revision (If Applicable)
Currently In Good Standing		2		

Number of plus points				
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Written-off or in collection with balance between \$100 and \$499		-1		
Written-off or in collection with balance between \$500 and \$1,999		-2		
Written-off or in collection with balance of \$2,000 or more		-3		
Total Debt more than annual income	Y	-1		

Number of minus points				
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Automatic Disqualification: Taxes in arrears to federal , state or local government

Total # of Points				
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An acceptable score of rating is -5 or higher.

Eligible for housing:    YES                      NO                      Conference Required

Note: Outstanding medical balances, repossessions and foreclosures are not considered in determining final score.

Conference /Hearing results: \_\_\_\_\_

\_\_\_\_\_  
NHA Representative

Revised 10/09