



**ADMISSIONS AND CONTINUED OCCUPANCY POLICY
FOR THE
DHA PUBLIC HOUSING PROGRAM
AND DHA OWNED-PROPERTIES**

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Introduction

The U.S. Department of Housing and Urban Development (HUD) has established certain regulatory requirements applicable to Low Income Housing, that are generally set forth in Title 24 of the Code of Federal Regulations (24 CFR), Parts 5, 8, 100, 290, 401, 402, 880, 886, 960 and 966. If there is any conflict between HUD's regulations and this policy, the HUD regulations will govern. In addition to Low Rent Public Housing, certain sections of this policy apply to other types of low-income housing owned, managed or developed by DHA such as multifamily housing, project-based Section 8 housing, project-based voucher housing and Low Income Housing Tax Credit units. When federal guidance is inconsistent, statute shall take highest priority, regulations second priority, handbooks third priority and other HUD guidance last priority.

Besides being DHA's *Admissions and Continued Occupancy Policy*, this is the *Tenant Selection Plan* for multifamily housing owned by DHA.

In its management of the multifamily project-based Section 8 housing that DHA owns, it will comply with HUD's regulations and guidance governing such housing. If HUD's regulations and guidance for multifamily housing conflict with those governing the management of public housing DHA will comply with the HUD rules applicable to the type of housing owned and managed. DHA's staff is aware of which of its properties and units are public housing, multifamily housing and project-based voucher housing and, consequently, which rules and guidance apply.

This policy references certain procedures (shown in *italic type*), that describe in detail how the policy is to be carried out by staff. The procedures are extensions of the policy document referenced. All procedures are public documents and are available for review upon request.

I. Nondiscrimination

A. Complying with Civil Rights Laws

1. Civil rights laws protect the rights of applicants and residents to equal treatment by the Housing Authority in operating its programs. It is the policy of DHA to comply with all Civil Rights laws now in effect and subsequently enacted, including but not limited to:

Title VI of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, religion, national origin or sex; **24 CFR §§ 1 and 100**

Title VIII of the Civil Rights Act of 1968 (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on disability and familial status, and spells out forms of prohibited discrimination; **24 CFR § 100**

Executive Order 11063

Section 504 of the Rehabilitation Act of 1973, which describes specific housing rights of persons with disabilities; **24 CFR § 8**

Age Discrimination Act of 1975, which establishes certain rights of the elderly; **24 CFR § 146**

Title II of the Americans with Disabilities Act, otherwise Section 504 and the Fair Housing Amendments govern (Title II deals with common areas and public space, not living units, which is covered by Section 504.)

Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity

Any applicable State laws or local ordinances.

2. DHA shall not discriminate because of race, color, national origin, sex, religion, familial status, disability, sexual orientation or gender identity in the leasing, rental, occupancy, use, or other disposition of housing or related facilities, including land, which is part of a development under DHA's jurisdiction covered by a public housing Annual Contributions Contract with HUD. **24 CFR § 100**
3. DHA shall not deny admission to otherwise qualified applicants because of their membership in some group to which negative behavior may be imputed (e.g., families with children born to unmarried parents). Instead, each applicant who is a member of a particular group will be treated as an individual based on his or her history and behavior. **24 CFR § 960.203(a)**
4. DHA will work continuously to affirmatively further fair housing and to remove impediments to housing choice by members of protected classes.
5. DHA will offer units only in the order prescribed by this policy, since any other method violates the rights of applicants.

B. Reasonable Accommodations

1. DHA, as a public agency that provides affordable housing to eligible families, has a legal obligation to provide "unit modifications" and "reasonable accommodations" to applicants and residents if they or any family members have a disability. **24 CFR § 8.4**
2. A unit modification is some adaptation or change DHA can make to its apartments, buildings, or sites. A reasonable accommodation is a modification DHA can make to its methods and procedures (but not federal law, regulations, or DHA policies). Both unit modifications and reasonable accommodations is carried out to assist an otherwise eligible applicant or resident with a disability to take full advantage of and use DHA's programs, including those that are operated by other agencies in DHA-owned public space. **24 CFR § 8.20**

A modification or accommodation is not reasonable if it: **24 CFR § 8.21(b) and 24 CFR § 8.24(a) (2)**

- a. Causes an undue financial and administrative burden; or
 - b. Represents a fundamental alteration in the nature of DHA's program.
3. Subject to the undue burdens and fundamental alterations tests, DHA will correct physical situations or procedures that create a barrier to equal housing opportunity for all. To permit people with disabilities to take full advantage of DHA's housing program and non-housing

programs, in accordance with Section 504 and the Fair Housing Amendments Act of 1988, DHA shall comply with all requirements and prohibitions in applicable law. Specific actions are described in the *Procedure on Civil Rights and Disability Rights*. **24 CFR § 8.4**

4. Facilities and programs used by applicants and residents shall be accessible to persons using wheelchairs, persons with sensory impairments and other persons with disabilities. Application and management offices, hearing rooms, community centers, day care centers, laundry facilities, craft and game rooms, etc. (to the extent that DHA has such facilities) will be usable by residents with a full range of disabilities. If DHA offers such facilities, and none is accessible, some¹ will be made so, subject to the undue financial and administrative burden test. **24 CFR § 8.2**
5. Documents and procedures used by applicants and residents will be accessible for those with vision, hearing or other sensory impairments. Also, all documents will be written simply and clearly to enable applicants with learning or cognitive disabilities to understand as much as possible. Methods used to ensure that communication is understandable by persons with disabilities is described in the *Procedure on Civil Rights and Disability Rights*. **24 CFR § 8.6**
6. Examples of reasonable accommodations include, but are not limited to: **24 CFR § 8.4**
 - a. Making alterations to a DHA apartment to make it fully accessible so it could be used by a person in a wheelchair;
 - b. Transferring a resident (at DHA's expense) who needs a fully accessible unit from an apartment that cannot be made accessible to an apartment that is accessible (this may require moving the resident from one property to another);
 - c. Widening the door of a community room or public restroom so a person in a wheelchair may use the facility;
 - d. Adding or altering apartment or building features so they may be used by a family member with a disability, including but not limited to;
 - 1) Installing strobe-type flashing light smoke detectors and flashing light/doorbell for a family with a hearing impaired member;
 - 2) Adding structural grab bars in the bathroom;
 - 3) Changing the doorknobs to lever-type door handles;
 - 4) Installing a magnifier over the thermostat;
 - 5) Switching the bathtub to a shower;
 - 6) Lowering the peephole on the door;
 - e. Permitting a family to have a large dog to assist a family member with a disability in a DHA family development where the size of dogs is usually limited; **24 CFR § 8.20**

¹ It is not required that all public and common areas be made accessible so long as persons with disabilities have full access to all the types of facilities and activities available to persons without disabilities. Thus, not all laundry facilities need to be accessible so long as there are sufficient accessible laundry facilities for use by persons with disabilities at each development that provides laundry facilities.

- f. Making sure that DHA processes are understandable to applicants and residents with sensory or cognitive impairments, including but not limited to: **24 CFR § 8.6**
 - 1) Making large type documents, Braille documents, cassettes or a reader available to an applicant or resident with a vision impairment during interviews or meetings with DHA staff;
 - 2) Using personal visits, interviews or telephone calls to convey information to an applicant or resident who cannot see or read;
 - 3) Making a sign language interpreter available to an applicant with a hearing impairment during interviews or meetings with DHA staff;
 - 4) Permitting an applicant or resident to be accompanied or represented by a family member, friend or advocate at all meetings and interviews with DHA if the individual desires such representation;
 - 5) Permitting an outside agency or individual to assist an applicant with a disability to meet DHA's applicant screening criteria;
 - 6) Assisting with the completion of DHA required forms to make a request.
- 7. To meet the standard of HUD's definition of "Qualified Individual with a Disability" a family head or other member with a disability must still be able to meet essential obligations of tenancy. They must be able: **24 CFR § 8.3**
 - a. to pay rent and other charges (e.g. utility bills) as required by the lease in a timely manner;
 - b. to care for and avoid damaging the apartment and common areas; to use facilities and equipment in a reasonable way;
 - c. to create no health, or safety hazards, and to report maintenance needs;
 - d. not to interfere with the rights and peaceful enjoyment of others, and to avoid damaging the property of others;
 - e. not to smoke in a DHA unit, common areas or anywhere on DHA property except designated smoking areas;
 - f. not to engage in prohibited criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or staff; and not to engage in drug-related criminal activity; and
 - g. to comply with necessary and reasonable rules and program requirements of HUD and DHA.
- 8. There is no requirement that a family must be able to do these things without assistance.
 - a. If an applicant or resident family member needs assistance with one of the essential obligations of tenancy, DHA will, as a reasonable accommodation, make a referral to an individual or agency that can provide such assistance. **24 CFR § 8.20**

- b. If an applicant or resident receives a referral to an agency or individual who can assist the applicant or resident with complying with the essential obligations of tenancy, the applicant or resident is not obligated to accept the service, but if refusing service results in a lease violation, DHA may terminate the lease. **24 CFR § 8.2**
- c. An applicant or resident family with a member who has a disability and needs or wants a reasonable accommodation may request it at any time prior to a specified due date or prior to the termination or withdrawal of assistance. If at any point an applicant or resident needs assistance in completing DHA required documents, DHA staff may assist in this process. **24 CFR § 8.20**
- d. If an applicant or resident would prefer not to discuss his/her disability with DHA, that is his/her right.
- e. Any request that requires a certified verification, must be submitted directly to DHA by the qualified person making the certification.

C. Limited English Proficiency

- 1. For persons with Limited English Proficiency (LEP), language can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information. 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.
- 2. DHA 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).
- 3. DHA's *Procedure on Communication with Persons with Limited English Proficiency* describes the specific methods DHA will use to accomplish this policy.
 - a. All forms, written materials and recorded voice-mail messages used to communicate with prospective applicants, applicants and residents shall be available in any language spoken by the lower of 1000 eligible families or five percent of the eligible population of Dallas. This includes documents related to intake, marketing, outreach, certification, re-examination and inspections. At this writing, DHA makes this information available in English, Spanish, and Vietnamese.
 - b. Applicants and residents with low English comprehension may furnish an interpreter to assist in communication with DHA. When an applicant or resident needs interpretation services and a staff member of the Authority speaks the language needed, the staff member will provide translation services.
 - c. In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, DHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.
 - d. DHA will provide written translations of other vital documents for each eligible LEP

language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served. Translation of other documents, if needed, can be provided orally. In 2011 the LEP groups for which DHA will provide translated materials are those who need materials in Spanish and in Vietnamese.

II. Eligibility and Intake

A. Applications

1. DHA will accept and process applications (including transfer applications) in accordance with applicable HUD Regulations and DHA's *Procedure on Intake and Processing*. Except for qualification for preferences, DHA will make its initial determination of eligibility assuming that the facts certified to by the applicant in the preliminary application are correct, although all those facts will be verified later in the application process.
2. Newly developed properties owned by DHA, or a DHA entity that contains a mix of units, some subsidized by project-based vouchers and others subsidized by public housing operating funds, shall maintain unit bedroom mix and disability needs without regard to subsidy type.
3. Every application for admission to low rent housing shall include the date and time of application, or application number (if applicable), applicant's race and ethnicity; eligibility determination; when eligible, the apartment size(s) for which eligible; preference, if any; and the date, location, identification, and circumstances of each vacancy offered and accepted or refused.
4. Beginning with the full implementation of this policy, all applications shall automatically expire 18 months after they are received. During Open Enrollment anyone who wants to be listed may apply at that time. Applicants who have not been selected for assistance whose application is about to expire at 18-months will receive an email message notifying them that their application is about to expire. The notice will also inform the applicant of their ability to reapply. Applicants whose applications have expired after 18-months are not entitled to an Informal Review since their applications are being withdrawn, they are not being denied assistance. They have every right to reapply for the program during Open Enrollment.
5. The following information will be verified according to HUD's regulatory requirements at 24 CFR Part 5 and DHA's *Procedure on Verification of Information*, to determine qualification for admission to DHA's housing: **24 CFR § 960.259** The Head of Household, Co-Head, and all other adults (age 18 and over) in each applicant family must sign an Authorization for Release of Information prior to being accepted and every year thereafter. The Authorization enables DHA to use the Enterprise Income Verification (federal database) to verify multiple subsidies, income from new hires, employment income, and/or reports of no income. The following will be verified:
 - a. Family composition, demographics and type (Elderly/Disabled//Non-elderly)
 - b. Annual Income
 - c. Assets and Asset Income

- d. Deductions from Income
 - e. Preferences
 - f. Social Security Numbers of all Family Members
 - g. Applicant Screening Information (including tenant and criminal history)
 - h. Citizenship or immigration status
6. Enterprise Income Verification (using federal databases) or third party written information that is mailed, faxed or transmitted electronically between DHA and the verification source, are the required form of documentation. Any other form of verification requires a note to the file explaining its use. **24 CFR § 960.259** Note: multifamily programs shall disclose to applicants that HUD's EIV database will be used to search the EIV Existing Tenant Search to determine if any applicant household member may be currently residing and/or receiving assistance through another multifamily housing or public housing location, and all applicants and tenants shall be provided with the "EIV & You" brochure at admission and annual recertification.
 7. Individuals applying for admission must submit a pre-application in the manner stipulated in the announcement of the opening of the Waiting List, or, if they are a person with a disability, may submit an application on-line, by mail or in person. Announcements will be made on DHA's website.
 8. If an applicant needs assistance in completing any aspect of the application process because of a disability, DHA will assist the applicant, as needed, to ensure equal access to DHA's programs.
 9. Applicants providing false information regarding family income, composition, preferences or other circumstances affecting their eligibility or rent level will be rejected. If the applicant has been assigned a unit and moved into a DHA owned unit, DHA will provide appropriate due process and will pursue all lawful civil claims and / or criminal actions, including the recoupment of back rent.
 10. If an applicant's preference status changes while on the waiting list, the applicant's position on the waiting list will be adjusted in accordance with DHA's *Procedure on Application Intake and Processing*.
 11. If the head of an applicant household dies while the family is on the waiting list, and the family includes another adult, DHA will authorize a change the application to make the other adult the new applicant so long as the family reports the death within 30 days and requests that another adult family member be named the head.
 12. Applicants whose family size or composition changes while on the waiting list will be able to make changes to their preliminary applications as needed.

B. Closing and Re-opening the Waiting List

1. DHA will open the Waiting List for general admissions to the program as needed. Applications will be removed from the waiting list only in accordance with DHA's *Procedure on Removing Applicants from the Waiting List*. **24 CFR § 960.206**
2. It is unlikely that DHA will close the waiting list for the highest priority applicants or at certain properties.

C. Affirmative Fair Housing Marketing and Outreach Procedures

1. When the waiting list is open DHA will conduct affirmative marketing as needed to ensure that the waiting list includes a mix of Applicants with races, ethnic backgrounds, ages and disabilities proportionate to the mix of those groups in the eligible population of its area of operation. DHA will review the factors regularly to determine the need for and scope of marketing efforts.
2. All marketing efforts will include outreach to those least likely to apply. DHA may designate sites for accepting applications. DHA staff will be available at these sites to assist applicants in completing the housing application documents. If additional applications are required to attain any of the objectives established in this Policy, DHA will engage in outreach efforts directed toward potential applicants who might fulfill the need.
3. The method used for Affirmative Marketing is described in *Procedure on Affirmative Marketing*.

D. Income Targeting Requirements

1. DHA will ensure that at least 40 percent of families admitted to public housing in any year have incomes at or below the federal extremely low-income (ELI)² limit. HUD establishes income limits and revises them annually to ensure that federal rental assistance is provided only to low-income families. Except under limited circumstances, the applicant family's annual income must not exceed the applicable income limit that HUD establishes and publishes for each county or Metropolitan Statistical Area (MSA) in the country.
2. The income limits are based on percentages of the median income of the geographic area for which the limit is established, and are adjusted for family size.

E. Qualifying for Admission

1. It is DHA's policy to admit only applicants who can be verified to be qualified³ according to all the following criteria:
 - a. Are a family⁴, as defined in Section XIII of this policy.

² Section 238 of HUD's FY 2014 Appropriations Act amended Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) to define ELI families as very low-income families whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level.

³ The term "qualified" refers to applicants who are both eligible and able to meet the applicant selection standards. This term is taken from the 504 regulations at **24 CFR § 8.3**, from the definition of "Qualified Individual with Disability".

⁴ A family can be a single person.

- b. Have at least one family member who meets HUD requirements on citizenship or immigration status⁵. **24 CFR § 5.5 (subpart E)**
- c. Have an annual income (as defined in Section XI of this document) at the time of admission that does not exceed the income limits (maximum incomes by family size and housing type established by HUD) posted in the DHA office. **24 CFR § 960.259**
 - 1) Disclose complete and accurate Social Security Numbers and/or supply any requested information to verify Social Security Numbers for all family members, except those who do not contend eligible immigration status. **24 CFR § 5.216 Exceptions to this rule:**
 - i. Individuals age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010. For these individuals, disclosure and verification documentation must be obtained that verifies the applicant's exemption status. **24 CFR § 5.216(e)**
 - ii. Applicant households with persons under the age of 6 that were added to the applicant household within the 6 months prior to admission. The family must disclose and provide verification of the SSN within 90 days of the date of admission. There is a 90-day period during which an applicant family may become a participant, even if the family lacks the documentation necessary to verify the Social Security Number of a family member under the age of 6. An additional 90-day extension must be granted if delays are due to circumstances beyond the family's control. **24 CFR § 5.216(h)(3)** If the applicant family does not produce the required documentation within the authorized time period, DHA will impose appropriate penalties, including termination of assistance. **24 CFR § 5.218**
- d. Meet the applicant selection criteria in these policies, including completing the approved pre-occupancy orientation session if required. **24 CFR § 960.202 & 203**
- e. Are not already adequately housed in any Authority-owned dwelling unit. Applicants who are listed on a current DHA lease and live in a unit meeting occupancy standards are not qualified for admission.
- f. Owe no money to DHA or any other housing authority in connection with any federal housing program.
- g. Do not have a history of misusing or abusing alcohol in any way that interferes with the health, safety, or rights of others, or:
 - 1) demonstrate to DHA's satisfaction that the family member who formerly abused alcohol no longer abuses or misuses alcohol; and
 - 2) have successfully completed a supervised alcohol rehabilitation program licensed and approved by Texas Commission on Alcohol and Drug Abuse (TCADA)⁶; or
 - 3) are presently participating in a supervised alcohol rehabilitation program.
- h. Agree not to smoke or to permit family and household members, guests, and other persons under tenant's control to smoke anywhere on DHA property except for designated smoking areas.

⁵ If all family members are not either citizens or eligible immigrants, the family will be required to pay a higher pro-rated rent.

⁶ If the applicant entering DHA's program is from another state, DHA will verify the applicant has successfully completed a state approved supervised program from the applicant's state of origin.

2. For multifamily Section 8 project-based units and Housing Tax Credit properties **ONLY**, no assistance will be provided to any family whose sole adult member is enrolled as a student in an institution of higher education, **unless that student meets one of the criteria below**. If a student does not meet at least one of these criteria, but can prove independence from parents under HUD rules, then the student would meet HUD's student eligibility criteria. If an *ineligible* student applies for, or is a member of an existing household receiving Section 8 assistance, the assistance for the household will not be prorated and will be terminated. Criteria that may possibly qualify a student for housing include:
- a. Student is over the age of 24, or
 - b. Is a veteran of the United States Military service, or
 - c. Is married, or
 - d. Has a dependent child, or
 - e. Is a person with disabilities receiving Section 8 assistance as of 11/30/2005, or
 - f. Is individually eligible or has parents who, individually or jointly, are eligible on the basis of income to receive Section 8 assistance, or
 - g. Is classified as vulnerable youth. A student meets HUD's definition of a vulnerable youth when:
 - 1) The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older, or
 - 2) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence, or
 - 3) The individual has been verified during the school year in which the application is submitted, as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act⁷), or unaccompanied, at risk of homelessness, and self-supporting, by
 - i. A local educational agency homeless liaison, designated pursuant to the McKinney-Vento Homeless Assistance Act; or
 - ii. The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director; or
 - iii. The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency (Shelter grants) or a designee of the director; or
 - iv. A financial aid administrator; or
 - v. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

⁷ 42 U.S.C. 11431 et seq.

3. Screening procedures for applicants who claim mitigating circumstances are outlined below.
 - a. If negative information is received about an applicant, DHA shall consider the time, nature, and extent of the applicant's conduct, and factors that might indicate a reasonable probability of favorable future conduct. To be considered, mitigating circumstances must be verifiable. **24 CFR § 960.203(d)**.
 - b. DHA will consider whether individuals with negative behavior in their recent past can document that they have been rehabilitated.

F. Occupancy by a Police Officer

1. To increase security at the site, at Fairmount Crossing one (1) two-bedroom unit will be made available for occupancy by a police officer. The Officer must be employed on a full-time basis as a duly licensed professional police officer by a federal, state or local government or by any agency of these governments.
2. Rent will not be charged for the unit; however, the officer will be responsible for 1) paying all utilities and 2) compliance with the lease which will include the employment requirements listed above.

G. Admission to Efficiency Units

1. During the eligibility interview for the Public Housing Elderly/Disabled Sites Program, if both an efficiency unit and a 1-bedroom unit are available, a single applicant will receive the efficiency unit offer.

H. Applicant Selection Criteria

1. The following criteria will be reviewed to determine whether applicant families qualify for admission. All applicants shall be screened in accordance with HUD's regulations and sound management practices. During screening, DHA requires applicants to demonstrate ability to comply with the essential provisions of the lease: **24 CFR§ 960.202 – 205**
 - a. to pay rent and other charges (e.g. utility bills) as required by the lease in a timely manner;
 - b. to care for and avoid damaging the apartment and common areas;
 - c. to use facilities and equipment in a reasonable way;
 - d. to create no health, or safety hazards, and to report maintenance needs timely;
 - e. not to interfere with the rights and peaceful enjoyment of others, and to avoid damaging the property of others;
 - f. not to smoke anywhere on DHA property other than designated smoking areas that will be at least 25 feet from any DHA building;
 - g. not to engage in prohibited criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or staff; and not to engage in drug-related criminal activity; and
 - h. To comply with necessary and reasonable rules and program requirements of HUD and DHA.

2. DHA will determine each applicant family's ability to comply with the essential lease requirements in accordance with DHA's *Procedure on Applicant Screening*.
 - a. Any costs incurred to complete the application process and screening will be paid by DHA. Application fees will not be charged by DHA.
 - b. Applicants who owe money to DHA or any other housing authority will not be admitted to the program until their debt is paid in full. **24 CFR §203**
3. DHA's screening process will review the following information for each applicant family (including certain data specific to every adult family member):
 - a. Applicant's prior rental history (or other history if there is no rental history) must demonstrate the applicant family's ability and willingness to comply with necessary and reasonable standards of behavior;
 - b. Applicants must satisfy in full, any overdue accounts or indebtedness owed to DHA or any other housing authority by any adult family member, within 30 days of notification of the debt owed⁸;
 - c. The applicant's lease must not have been terminated by DHA, and, if a Housing Voucher Program participant, the applicant's voucher must not have been terminated within the previous 5 years, except that the period shall be 10 years for a drug related eviction or termination;
 - d. Applicant must have a history of reasonably good performance in meeting rent and utility payment obligations⁹, and no record of eviction from housing or termination from residential programs in the past 5 years for failure to meet financial obligations;
 - e. Former residents will not have their application rejected if the debt owed to DHA was discharged by a bankruptcy court;
 - f. DHA's standards on criminal activity require that neither the applicant nor any adult family member:

4. Criminal History Check

DHA shall conduct a criminal background check for every member of the applicant's family age 18 and older. As required by Federal law, DHA shall screen to ensure that no member of the family has engaged in recent violent criminal activity that threatened the safety of the public or in drug related criminal activity.

⁸ Must have been an adult when the debt was incurred.

⁹ Exceptions can be made when the amount of rent plus utilities exceeds 50 percent of the applicant's adjusted monthly income.

DHA shall not approve admission of Applicants with criminal backgrounds whose presence may compromise the health, safety, welfare and/or peaceful enjoyment of the housing by other residents.

To avoid admitting such applicants, DHA shall examine the activity of all adult members of the applicant's family for a period up to seven years prior to the date of the admission into the program, unless specified otherwise below. DHA shall take reasonable steps to ensure that neither the applicant nor any member of the applicant's family who will be included on the lease:

1. is currently using illegal drugs or has a history of engaging in the illegal use of controlled substances in the past five years. This requirement may be waived if the applicant demonstrates to DHA's satisfaction that they no longer engage in the illegal use of the controlled substance(s). This waiver or five-year time period may not be available to individuals engaged in selling, producing or manufacturing illegal substances. Applicants with felonies for selling, producing or manufacturing illegal substances will generally not be approved for admissions, except as provided below.
2. has a history of criminal activity involving crimes of violence to persons, with the exception of sex crimes, or property and/or other criminal acts that would adversely affect the health, safety, or welfare of other residents or DHA personnel in the past five years.
3. has a history of sex crimes and/or sex crimes against a person and felony crimes against children. Applicants with such convictions will generally not be approved for admission, except as provided below.
4. has a felony conviction for arson. Applicants with such convictions will generally not be approved for admission, except as provided below.
5. has a conviction of homicide or kidnapping. Applicants with such convictions will generally not be approved for admission, except as provided below.
6. has a history of incarceration, parole or probation for drug-related crimes, violent crimes, or crimes that threaten the health, safety and/or general well-being of the community in the past five years.
7. has a conviction of manufacturing or producing methamphetamine on the premises of any HUD-assisted housing. HUD regulations require that DHA **permanently** bar any individual with such a conviction.
8. is subject to a lifetime registration requirement under a State sex offender registration program. DHA shall **permanently** deny admission if any adult member is subject to a lifetime registration requirement under a State sex offender registration program.
9. has been evicted from federally assisted housing for drug-related or violent criminal activities within seven years of the application date. This waiver is not available to a person who was evicted for selling, trafficking, producing or manufacturing illegal substances.

The evidence of probation or parole for the aforementioned crimes maybe waived if the following criteria apply:

1. An applicant is currently on probation or parole for an offense (except regulatory exclusions) that occurred prior to the five-year time-frame, and the applicant can provide documentation from their probation or parole officer that all conditions of probation or parole are being met satisfactorily with no violations.
2. An applicant has completed probation or parole for an offense (except regulatory exclusions) that occurred prior to the five-year timeframe, and the applicant can provide documentation from their probation or parole officer that all conditions of probation or parole have been met satisfactorily with no violations.

Applicant must have no history of misrepresenting information relative to eligibility, income, allowances, family composition or rent. Applicant must have no history in the past five years of disturbing neighbors, destroying property, or negative living and housekeeping habits at prior and/or current residences.

For vulnerable homeless applicants only, the screening criteria with respect to criminal history shall focus on the federally mandated exclusions of persons convicted of manufacturing methamphetamines on the premises of federally assisted housing and persons required to register as sex offenders. Beyond these two criteria, a criminal history shall not be used to exclude individuals so long as they are willing and able to refrain from violent actions and drug-related criminal activity that would be a threat to others.

DHA may waive the criminal history requirement for applicants participating in special programs targeting special needs populations such as homeless persons who were formerly incarcerated, other homeless persons and families, veterans and/or disabled persons.

	Convictions for:			
	OFFENSES	Felony (years)	Misdemeanor (years)	Patterns of misdemeanors
1	Alcohol related	7	0	2 or more in 3 yrs
2	Arson	7	7	
3	Assault &/or Battery	5	5	
4	Bad Checks	5	0	
5	Burglary	5	5	
6	Crimes against animals	5	5	
7	Crimes against children (other than registered sex offenders)	7	5	

8	Crimes against Gov't or Gov't Officials	5	5	
9	Cybercrime	5	5	
10	Destruction/Damage/ Vandalism of Property	5	5	
11	Disturbance to Peace & Order	5	0	2 or more in 3 yrs
12	Domestic Crimes	5	5	
13	Drug	5	5	
14	Drug Manufacturing, Sale, Distribution (other than drug offenses barred by federal statute)	7	7	
15	Embezzlement	5	5	
16	Fraud	5	5	
17	Gambling	5	5	
18	Harassment	5	5	
19	Homicide	7	7	
20	Kidnapping	7	7	
21	Organized Crime/ conspiracy	5	5	
22	OUI, OVI, DWI	5	0	2 or more in 3 yrs
23	Petit Theft	5	0	
24	Purposefully Obstructs, Impairs or Perverts the Law	5	5	
25	Robbery	5	5	
26	Sexual Crimes – Other	7	7	
27	Sex Crimes against a person	7	7	
28	Theft/ Larceny	5	5	
29	Traffic Violations	5	0	

30	Trespassing	5	5	
31	Weapons	5	5	
32	Incarceration (due to conviction)	5	5	
33	Any Offense Not listed	7	0	

I. Determination of Eligibility and Notification of Applicants

1. After DHA receives a completed full application, DHA will conduct an evaluation to determine applicant eligibility.
 - . Applicant screening and verification of income, family composition, citizenship /immigration status, social security numbers, preferences, and allowances will typically be conducted following selection from the waiting list. DHA's *Procedure on Verification of Information* will be used to verify all information related to eligibility for admission, and receipt of subsidy and rent.
3. Each eligible applicant will receive written notification of his/her eligibility and of the approximate date he or she will be offered housing. A copy of this notification will be retained in the applicant's file.
4. Each applicant determined to be ineligible or unqualified for admission will be notified in writing of the reason(s) for the determination, and the applicant's right to submit a written request for an informal hearing within fourteen calendar days of the date the notice is postmarked or digitally transmitted.
 - a. DHA or contracting agency hired by DHA will provide the applicant with a copy of any information (including criminal history) DHA used to determine the applicant ineligible or unqualified for admission upon written request.
 - b. The review and hearing procedures is described in DHA's *Procedure on Informal Hearings*.
 - c. Applications withdrawn by the applicant or DHA, applications submitted by ineligible or unqualified applicants, and the notice of ineligibility are retained in DHA files for at least three years following the date of the withdrawal or rejection of the application.
 - d. Applications will be withdrawn by DHA when an applicant fails to respond within one week, unless otherwise prescribed in the DHA notice, to a request for information, or to attend a meeting, briefing, or appointment, or when letters or notices sent to the applicant are returned because the applicant is no longer at the address of record.

J. Preference System for Public Housing and Multifamily Housing Units

1. Preferences may be established to order the selection of applicants from the waiting list. Every applicant must meet DHA's Selection Criteria as a condition of eligibility prior to being

offered an apartment. Preferences may be granted to applicants who are otherwise qualified and who, at the time of the offer (immediately prior to execution of a lease), are verified to meet the established local preferences described below. However, DHA reserves the right to admit applicants based on a percentage share of preference and non- preference admissions: **24 CFR § 960.206**

2. The local preferences in effect are explained below. An applicant will qualify for a preference if he/she qualifies in one or more of the following categories (that are defined Section XIII, Definition of Terms):
 - a. Vulnerable homeless persons: A preference may be granted to vulnerable homeless individuals and families referred to DHA by an authorized referring agency. Authorized referring agencies will enter into a memorandum of agreement with DHA committing to provide individualized case management and support services appropriate to meeting the needs of the homeless person(s) to which they refer to DHA. Specific roles and responsibilities of the service provider will be detailed in the MOA. Units at Renaissance Oaks, Park Manor and Audelia Manor may be offered to vulnerable homeless persons with a duly executed MOA between DHA and the services provider.
 - i. In addition, turnover units at family properties may be made available to homeless and formerly homeless families, with the exception of scattered site homes and multifamily Section 8 PBRA, at the discretion of DHA.
 - b. Disaster preference: Applicants displaced by a federally declared disaster, or a disaster to a DHA-assisted unit will qualify for this preference if they apply within 90 days from the date the disaster is declared (and the waiting list is open at that time). They will be admitted in the following order:
 - i. Existing public housing residents and HCV program participants.
 - ii. Multifamily Section 8 PBRA residents are not eligible for this preference.
 - c. Applicants who were not previously living in assisted housing but who meet all other application criteria.
 - i. Working families: Applies to up to one-half of any year's admissions at non-elderly developments only. (Families whose sole adult members are elderly individuals or persons with disabilities at these properties will automatically be awarded this preference.) A family will qualify for this preference if they have at least one adult member who has been employed at least 30 hours per week in the six consecutive months prior to admission with no period of unemployment for more than two weeks. Multifamily Section 8 PBRA residents are not eligible for this preference.
 - ii. Mixed population building preference¹⁰: In buildings designed for occupancy by elderly and disabled families (Renaissance Oaks, Park Manor, Cliff Manor,

¹⁰ This preference shall not apply to units in general occupancy properties.

Audelia Manor, Forest Green Manor, and Lakeland Manor), applications from single persons who qualify under the definitions of elderly family, disabled family person will be ranked higher than those of single persons who are not elderly or disabled. Roseland Gardens, Buckeye Senior Building, and Lakewest Senior Village properties are designated for occupancy by elderly families. Only families whose head, spouse, or sole member is a person aged 55 years old or older may be admitted to these properties and no families with children may be admitted. Multifamily Section 8 PBRA residents are considered eligible for this preference at Forest Green Manor and Lakeland Manor, because these properties are designated for use by elderly residents.

3. Except as indicated below, these preferences are of equal weight and an applicant may qualify under any of the above categories.
4. Families that do not qualify for one of these preferences and all applicants to multifamily properties will be categorized as “no-local-preference” applicants.
5. Applicants with equal local preferences will be selected by lottery number (whichever system is in effect).
6. DHA will select applicants from the public housing and affordable housing waiting lists by lottery.

K. Factors other than Preferences that Affect Selection of Applicants

1. Accessible units: For UFAS accessible units, resident and applicant families that include a member with a disability, who is verified to need the features of such units shall be given preference for admission over a family that does not include a member with such a disability.
 - a. Persons needing more features of a specific unit will be given preference over persons needing fewer features of the units available.
 - b. When a UFAS accessible unit becomes available, it shall be offered first to a current resident who needs the features of the unit, and second (if there are no residents who need the features and will accept a transfer) to an applicant family with a member who needs the accessibility features.
2. Income targeting: At least 40 percent of public housing admissions in every year shall be families of Extremely Low Income (as defined in Section XIII, Definition of Terms).
3. De-concentration: If at any time, one of DHA’s public housing properties has an average tenant income greater than 15 percent higher than DHA-wide average income, extremely low and very low income applicants will be targeted for admission until it is within 15 percent of DHA-wide average income. In addition, DHA may offer voluntary transfers from higher income properties to lower income properties to help achieve de-concentration goals. It is not practical to try to attract higher income applicants to the lower income properties because there are virtually no higher income applicants to attract.

L. Records Management

1. Information received by DHA from any agency regarding drug treatment and criminal background shall be handled as required by HUD regulations.
2. All criminal records are maintained in a secured environment. Once the purpose for which the records were obtained is completed, the records are permanently destroyed by shredding.

M. Occupancy Guidelines¹¹

1. Apartments shall be occupied by families of the appropriate size. This policy maintains the usefulness of the apartments, and in an effort to administer subsidy funds responsibly, DHA takes a conservative and stringent approach in determining the appropriate unit size. To that extent, DHA will utilize a maximum occupancy standard of two persons per bedroom.
2. The following principles govern the size of apartment for which a family will qualify. Generally, two people are expected to share a bedroom. The guidance below explains how DHA determines unit sizes to be assigned, but each family, not DHA, decides exactly who shares a bedroom. Units will be so assigned that:
 - a. At least one person must occupy each bedroom.
 - b. A maximum of two persons may occupy a bedroom or living/sleeping room.
 - c. A one-person family will be issued a one-bedroom unit.
 - d. Two youth per bedroom, unless they are of different gender.
 - e. Adults may be assigned a separate bedroom, unless reported as a spouse or as domestic partners.
 - f. A child (under 18 years of age) who is temporarily away from the home because of placement in foster care, or an adult member over age 18 who is a full-time student temporarily away at college is considered a member of the family.
 - g. A family that consists of a pregnant woman (with no other persons) shall be treated as a two-person family.
 - h. Two disabled individuals may be assigned a two-bedroom unit subject to the review and approval of a request for reasonable accommodation.
 - i. A bedroom may be allocated for an approved live-in aide to provide continuous medical assistance to a disabled family member. Since a live-in aide is one person, no additional bedrooms will be considered for the live-in aide's family. A live-in aide must not have another residence, but rather must live in the unit. Refer to number 3 below for additional guidance on live-in aides.
 - j. A bedroom will not be allocated to house furniture, and a bedroom will not be allocated for medical equipment unless it is verified necessary for a resident with a disability. DHA will

¹¹ HUD Notice of Policy, Dec. 18, 1998 Federal Register

conduct an inspection to determine that the size and type of medical equipment verified to be needed by the participant with a disability warrants an additional bedroom. For example, a participant will not be approved for an extra bedroom to house a folding wheelchair. DHA reserves the right to relax these occupancy standards at hard-to-lease properties.

k. The local housing code of two persons per bedroom is the standard for the smallest apartment a family may be offered¹².

l. The largest apartment size that a family may be offered would be one bedroom per family member, considering family size and composition.

3. The following principles govern the use of live-in aides.

a. Live-in aide means a person who resides with one or more elderly persons, or near elderly persons, or persons with disabilities, who: **24 CFR §5.403**

- 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.

b. DHA's determination whether or not to permit the addition of a live-in aide to a public housing household shall be based upon verification that:

- 1) The person to be assisted by the live-in aide qualifies as an individual with a disability as defined at **24 CFR §8.3**; and
- 2) there is a nexus between the individual's disability and the services that a live-in aide might reasonably provide.

c. DHA shall notify the family of the decision to approve or deny the live-in aide in writing within 14 business days from the date all required documentation is provided.

d. The family and live-in aide will be required to submit certifications:

- 1) That the live-in aide is not obligated to support of the person(s) needing the care, and
- 2) That the live-in aide would not be living in the unit except to provide the necessary supportive services.
- 3) Under this HUD definition, a person already residing in the unit (such as a spouse, boyfriend, or girlfriend) cannot be a live-in aide (since they are living in the unit anyway).

e. A live-in aide cannot maintain a secondary primary residence since he/she is verified to be necessary to provide care on a live-in basis and is expected to live in the unit. A live-in aide may have a job outside the assisted unit if it will not affect the care and services to be provided to the person assisted.

¹² Individual apartments with very small or very large bedrooms or other specific situations that inhibit or encourage lower or higher levels of occupancy, may be permitted to establish lower or higher occupancy levels so long as the occupancy levels will not discriminate on the basis of familial status.

- f. Live-in aides are required to attend the annual recertification appointments with the head of household and DHA must determine annually the eligibility of the household for a live-in aide, unless specified otherwise by the medical practitioner verifying the need for the accommodation.
- g. Although family members may be qualified to perform the services needed by the individual with disabilities, a live-in aide will not be considered as a family member on the lease, his/her income will not be counted for eligibility or rent purposes, and the live-in aide cannot take over the unit as a “remaining member of a tenant/ family.”
- h. The Live-in aide must meet DHA’s screening criteria. Further, the live-in aide must not currently owe rent or other amounts to DHA or any other housing authority in connection with any HCV or public housing programs.

III. Tenant Selection and Assignment Plan

A. Organizing the Applicant Waiting List

- 1. DHA has established and maintains site-based waiting lists to enable applicants to select the development in which they would like to reside.
- 2. All mixed finance properties have site-based waiting lists as do the Section 8 multifamily and project-based properties.
- 3. An applicant may apply for admission to any open waiting list.
- 4. When an application is processed for admission the applicant’s applications to other DHA owned housing will be removed from these waiting lists whenever he/she accepts a unit offer, is denied admission due to ineligibility, or for failure to meet screening standards, or if the applicant refuses a unit offer without good cause. The applicant’s application to the Housing Choice Voucher program, if submitted, will remain intact and will not be withdrawn.
- 5. Certain public housing properties are occupied mostly by the transfer of eligible residents (incentive transfers) who are high performing residents when such transferees are available. These properties include the following:
 - a. Frazier scattered site homes,
 - b. Scattered site homes,
 - c. Single family homes (TX 9-29, TX 9-30, TX 9-37, TX 9-40, and TX 9-42),
 - d. Frankford Townhomes,
 - e. Villas at Hillcrest, and
 - f. Any single family homes to be developed in the future.
- 6. In the event the incentive waiting lists become exhausted, DHA will pull applicants from the scattered sites waiting list.
- 7. Although applications may be accepted at each authorized site, they will continue to be processed centrally and all offers will be authorized centrally. Further, the central intake and placement office will monitor any increases in racial or ethnic concentration caused by site-based waiting list choices.
- 8. The preferences described earlier in this policy will be used to establish the order of each site-based waiting list, and all applicants will retain their initial date and time of application.

9. DHA owns and manages multiple housing tax credit properties as part of its low rent public housing program. Housing tax credit properties may be comprised of housing units at different subsidy levels. Applicants to housing tax credit properties are eligible to apply to any such unit regardless of the subsidy level; however, the rent payment will not change based on the unit since rent for low rent public housing residents is determined based on household income. This is discussed further in DHA's Procedure for Wait List Maintenance and Management.

B. Making Unit Offers to Transferees and Applicants

1. Certain transferees (emergency transfers, administrative transfers for priority 1, and administrative transfers for priority 2) will receive offers of housing before applicants from the waiting list. These are outlined in this section below.
2. In all offers DHA shall not discriminate on grounds of race, color, sex, religion, national origin, disability, sexual preference, gender identity, or familial status. Also, see DHA *Procedure on Transfers*.
3. Specifically, the following order of offers applies:
 - a. Emergency transfers. **24 CFR § 966.4 (h)**
 - b. Administrative transfers in the following category order:

Priority 1: DHA actions that require a unit to be vacated. Such actions could include renovation, revitalization, demolition, or disposition of the building or complex.

Priority 2: Reasonable accommodations for residents with disabilities. **24 CFR § 8.4**

New Admissions from the waiting list.¹³

Priority 3: Units too large or too small for the resident family. **24 CFR § 966.4(c)**

Priority 4: Resident incentive/family self-sufficiency transfers.
4. To ensure equal opportunity and nondiscrimination on grounds of race, color, sex, religion, sexual preference, gender identity, national origin, disability or familial status, Plan "A", the one-offer plan, will be used to make apartment offers to applicants or transferees from waiting lists. **24 CFR § 1.4(2)(ii)**
5. The first qualified applicant or transferee in sequence on the waiting list is made one offer of an apartment of appropriate size and type.
6. An applicant/transferee must accept the vacancy offered or be removed from the waiting list, unless the applicant refuses the offer with good cause. (See DHA's *Procedure on Good Cause for Refusal of Unit Offers*.)
7. If an applicant family's size changes while on the waiting list, the family is required to contact DHA so they can be placed on the correct sub-list by unit size. If DHA discovers that a change in family size means that a family cannot be processed for a certain vacant unit, the family will be transferred to a list for the correct size of unit. Some sites may not have units

¹³ New admissions are processed between priority 2 and 3.

of the size needed by the family and the family will be permitted to select a different site or up to three sites.

8. When application processing is delayed because of missing verifications or inconclusive screening information, a family's application will be suspended for up to 60 days until the necessary verifications are received. This means that a person who is lower on the waiting list may receive a unit offer before a person who is higher on the waiting list. As soon as the necessary verification(s) are received, the suspended application will be placed in the applicant pool for consideration for a future vacancy when it occurs.
9. The applicant must accept any apartment offered within five calendar days of the later of the date the offer is communicated (by phone, mail, or the method of communication designated by an applicant with disabilities), or the date they are shown the apartment or an equivalent apartment.
10. If the applicant does not accept the unit offer within five calendar days, he/she will be withdrawn from the waiting list. Applicants may not receive an offer for public housing for 12 months from the date when they either refused a unit offer or failed to respond to a unit offer.
11. All offers made over the phone will be confirmed by first class letter¹⁴.
12. If more than one apartment (of the appropriate size and type) is available, the first apartment to be offered will be the apartment that is or will be ready for move-in first.
13. If two units are ready for move-in on the same day, the first apartment to be offered will be the apartment that became vacant first.
14. Names will be removed from the waiting list in accordance with DHA's *Procedure on Removing Applications from the Waiting List*.

C. Accessible Units

1. Before offering a UFAS¹⁵ accessible apartment to a non-disabled applicant, DHA will offer such units:
 - a. First, to a current public housing resident with a disability that requires the greatest numbers of the special features of the vacant apartment. **24 CFR § 8.27(1) (a)**
 - b. Second, to an eligible qualified applicant on the waiting list having a disability that requires the greatest number of special features of the vacant apartment. **24 CFR § 8.27(1) (b)**
2. When offering an accessible/adaptable apartment to a non-disabled applicant, DHA will require the applicant to agree to move to an available non-accessible apartment within 30 days when a current resident or an applicant with a disability needs the apartment. This requirement is also reflected in the lease. **24 CFR § 8.27 (2)**
3. If an applicant family includes a member with a visual or hearing impairment, DHA will

¹⁴ Or by the communication method requested by an applicant with a disability.

¹⁵ See Section XIII, "Definition of Terms".

quickly retrofit the unit (at DHA's cost) to be offered to the family to make it fully accessible for the family member's disability.

D. Administering the Applicant and Transfer Waiting Lists

1. Applications for admission and transfer to and within public housing properties (including public housing units at tax credit properties) will be processed centrally by the intake and placement office. Initial intake, waiting list management, screening, and assigning of housing (including transfers) will be made from the intake and placement office. Offers may be made in person, in writing, or by phone from the central office.
2. DHA will be in charge of the application and transfer process for ALL public housing units/properties. Applications for admission to the market rate units at tax credit properties will be processed by site staff and audited monthly by DHA.
3. DHA has two possible types of transfers: emergency and administrative. The definition of each is found later in this document under the section "Transfer Policy".
4. Certain transfers take precedence over new admissions (see "Making Unit Offers to Transferees and Applicants" above, as well as later in this document under "Transfer Policy".)
5. Tenants who refuse a transfer offer without good cause will be removed from the transfer list and tenants whose transfers are mandatory are subject to lease termination. **24 CFR § 955.4(c)**
 - a. Tenants on the transfer list may refuse transfer offers for the "good cause" reasons cited in DHA's *Procedure on Good Cause for Refusal of Unit Offers* without losing their position on the transfer list.
6. Tenants may use DHA's *Grievance Procedure* if DHA is requiring them to transfer and they do not want to do so. **24 CFR § 966.50**

E. Monitoring Tenant Selection and Assignments

1. DHA will select applicants from its waiting list by conducting a lottery (random selection) each time it elects to select one or more applicants from a waiting list.
2. DHA will perform this random selection (lottery) using its Yardi software system.
3. DHA will maintain detailed records of each waiting list lottery to demonstrate that its selection methodology is accurate and impartial.
4. Detailed records of units offered, including the location, date, and circumstances, for each acceptance or refusal of an offer, will also be maintained and monitored using DHA's *Procedure on Monitoring Tenant Selection and Assignment*.

F. Fair Housing

1. Complaints: DHA will respond to all complaints received from applicants and tenants who believe that their rights under the Fair Housing Act have been violated. A written record of each complaint including the date, name, of the person making the complaint, names of all

person(s) involved, investigation of the facts, record of the hearing, and the final decision regarding the complaint will be maintained by DHA. Each complainant will be furnished a written notice of the decision or action taken.

2. Applicants will be advised of their right to file a complaint with the HUD Fair Housing and Equal Opportunity Office. Information outlining how to file complaints with HUD is posted in the central office and at all DHA housing developments.

IV. Leasing Policies

A. General Leasing Policy

1. Apartments will be leased without regard to race, color, religion, sex, age¹⁶, sexual orientation, gender identity, national origin, disability, and familial status. **24 CFR §§ 1.4 and 100**
2. All units must be occupied by families whose sole residence is the apartment. **24 CFR § 966.4(f)**
3. All units must be occupied pursuant to a signed DHA lease that complies with HUD's regulations **24 CFR § 966.4** or, for multifamily properties, the HUD model lease.
4. DHA will not offer, nor move a family, into an apartment that does not meet basic standards of habitability, including HUD occupancy standards. **24 CFR § 966.4(e)**
5. The lease shall be signed by the head of household, spouse, and all other adult members of the family and by the authorized representative of DHA, prior to actual admission. **24 CFR § 966.4 (p)**
6. The manager shall provide an explanation of the lease provisions either prior to move-in or at the time of move-in. The explanation must be in a language understood by the resident, or in a manner intelligible to a person with disabilities.
7. Changes in family composition, income or familial status between the eligibility interview and leasing will be processed by the intake or site staff (See "Applications" paragraph 12 above.) Changes after leasing will be processed by the housing manager or other authorized representative of DHA.
8. DHA's principles on security deposits are outlined below.
 - a. Public Housing Properties:
 - 1) The resident shall pay a security deposit at the time of leasing, or, with the permission of DHA, shall be permitted to pay part of the security deposit at leasing and the remainder over the first six months of tenancy as a charge in addition to the rent.
 - 2) The security deposit for new elderly or disabled families shall be the greater of \$100 or one month's rent.
 - 3) The security deposit for new non-elderly and non-disabled families shall be the greater of \$200 or one month's rent.

¹⁶ Except at those properties that are properly designated for elderly families without children, only.

- 4) For all current residents, the amount of security deposit already paid shall not be increased while the resident lives at any DHA property (including situations in which a family is transferred from one property to another).
- 5) If a resident transfer from one property to another, the security deposit should be applied to the new unit and shall not be increased. If, after conducting a move-out inspection of the previous unit, damages or other charges are owed, DHA will charge the resident but will not use the security deposit to pay the charges. The disposition of the security deposit will only occur when the resident leaves the program.
- b. Multifamily properties:
 - 1) DHA will comply with HUD's security deposit requirements as stated in Handbook 4350.3 as revised from time to time.
9. Pet deposits are in addition to the security deposit, and charged in accordance with DHA's *Pet Policy and Procedure*. Assistive animals verified to be needed by residents with disabilities are not pets and pet deposits are not required. **24 CFR § 966.4(b)(5)**
10. If a resident transfer from one DHA apartment to another, a new lease will be executed for the dwelling into which the family moves. **24 CFR § 966.4 (a)(ii)**
11. If at any time during the life of the lease agreement, a change in the resident's status results in the need for changing or amending any provision of the lease, either: **24 CFR § 966.4(c)**
 - a. A new lease agreement will be executed, or
 - b. A Notice of rent adjustment will be executed, or
 - c. An appropriate rider will be prepared and made a part of the existing lease.
 - d. All copies of such riders or insertions are to be dated and signed by the resident and by the Executive Director/CEO or other authorized representative of DHA. **24 CFR § 966.4 (o)**
12. At the time of leasing, the new resident will receive a copy of the applicable DHA lease and the following attachments:
 - a. Pet Policy.
 - b. Community Service Policy (public housing only).
 - c. Applicable City Ordinances.
 - d. Other lease attachments as stipulated in Part 1 of the Lease.
13. If, at any time, the head of household dies or leaves the unit for any reason (e.g. institutionalization, forming a new household elsewhere), DHA will permit the remaining members of the family to remain in the unit so long as:
 - a. The remaining family member(s) report the death or departure of the head within 10 days of the occurrence;
 - b. There is still at least one member who was listed on the lease for the apartment; and
 - c. The family includes a person who is either an adult or an emancipated minor capable of executing a lease.
14. Residents are not permitted to allow roomers or boarders to occupy their apartments. Violation of this provision is grounds for lease termination.
15. Residents are not permitted to allow a former resident of DHA who has been evicted to occupy their unit, even as a visitor. Violation of this provision is grounds for lease

termination.

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

B. Showing Units Prior to Leasing

1. Applicants may have an opportunity to see the unit being offered, or a similar sample unit, before they accept the offer and lease the apartment in accordance with DHA's *Procedure on Showing Units Prior to Leasing*.
2. DHA will not show nor move a family into a unit that does not meet basic habitability standards, including applicable DHA occupancy standards.

C. Additions to and Deletions from the Resident Family and Household

1. Only persons listed on the most recent certification form and lease, or added in accordance with law or DHA's *Procedure on Additions to Resident Families/ Households*, shall be permitted to occupy a dwelling unit. **24 CFR § 966.4(a) (v)**
2. Children will be added to families if they are born to, or adopted by a family member, or a court awards custody to an adult family member listed on the lease.
3. Generally DHA will approve the addition of an adult family or household member only when that individual passes screening and does not overcrowd the family in the unit they currently occupy.
4. Residents who permit unauthorized individuals to occupy their units are subject to lease termination and eviction.

D. Visitors

1. Overnight visitors are permitted in a dwelling unit in accordance with DHA's *Procedure on Visitors* so long as they have no previous history of behavior on DHA premises that would be a lease violation.
2. Residents must register all of their overnight visitors with the housing manager. The registration form permits DHA to run a criminal history check on adult visitors who stay overnight; however, DHA will not run a criminal history check on a visitor unless DHA has reason to believe the visitor actually lives in the DHA unit or if DHA receives complaints about the visitor's behavior from other residents or law enforcement personnel.
3. In DHA properties, a guest may visit overnight for a total of 14 days/nights in any twelve-month period.

V. Transfer Policy

A. General Transfer Policy

1. Transfers are made within and between properties without regard to race, color, sexual

orientation, gender identity, national origin, sex, religion, or familial status. Residents can be transferred to accommodate a disability. Transfers will be made in accordance with DHA's *Transfer Procedure*. **24 CFR § 100.5**

2. Residents will not be transferred to a dwelling unit of equal size, except to alleviate hardship of the resident or other undesirable conditions as determined by the Chief Operating Officer or designee, or as an incentive to high performing residents.
3. Residents will receive one offer of a transfer. Refusal of that offer without good cause will result in lease termination for mandatory transfers, or the removal of the household from the transfer list for voluntary transfers. **24 CFR § 1.4(2)(ii)**
4. There is no notice requirement for emergency transfers. All other categories of transfers will be given the appropriate amount of notice required by the laws of the State of Texas.
5. When possible, DHA will allow a resident in good standing to choose the property to which to transfer for rehabilitation or redevelopment units, so long as there are units of the right size and right type for the resident being transferred. Residents who are subject to mandatory transfers do not have the right to wait until a suitable unit is available at the property they prefer, rather each resident will receive a choice of the units available that are the right size and type.
6. Residents cannot be transferred across housing programs. This includes transfers from public housing (including ACC units in tax credit properties) to multifamily housing properties, or tax credit market rate housing, but residents can be transferred within such properties.

B. Types of Transfers

1. The order in which families are transferred shall be hierarchic by category set forth below.
 1. Emergency transfers are mandatory, and are made when DHA determines that unit or building conditions pose an immediate threat to resident life, health, or safety, or to resolve problems of a life-threatening nature that are not related to building or unit conditions. Victims of VAWA may also qualify for an emergency transfer. **24 CFR § 966.4(h)**
 - 1) DHA is not required to give prior notice of an Emergency Transfer.
 - 2) Emergency conditions that occur due to resident abuse or neglect will be grounds for emergency transfers; however, the resident will be charged for the damages caused to the apartment¹⁷. **24 CFR § 966.4(h)**
 - 3) Refusal to accept an emergency transfer is grounds for lease termination and eviction.
 - b. Administrative transfers shall take priority over new admissions.
 - 1) Priority 1: Mandatory administrative transfers to permit DHA to renovate, modernize, revitalize, demolish, or dispose of a public housing property.
 - 2) Priority 2: Voluntary administrative transfers to move residents with disabilities to

¹⁷ Resident may challenge any charges for damages by using the DHA Grievance Procedure.

accessible units, or units with features that accommodate their disabilities better than those in their current apartments.

- i. This category also includes mandatory transfers of tenants without disabilities from accessible units when no one in their family needs the accessibility features, to regular units so that a family that needs the accessibility features can occupy the accessible unit. **24 CFR § 8.27(1)**
 - ii. This transfer priority also covers transfers of individuals from independent living apartments to a property with enriched supportive services when such services are needed to preserve the tenancy of the individual with disabilities.
- 3) Priority 3: Mandatory transfers to move families out of units that are too large (over-housed) or too small (under-housed) for the families. Families in units that are too large shall be transferred before families in units that are too small. **24 CFR 966.4**
 - 4) Priority 4: Incentive transfers are voluntary transfers for high performing families, (including those that have enrolled in FSS) to certain properties. Managers will nominate qualifying residents, and the transfer requests must include necessary documentation to substantiate the qualification for such transfers. These transfers are made both to ensure that all properties are well cared for by residents, and to achieve income de-concentration goals.
2. Whenever feasible, transfers will be made within a resident's area or other location of the resident's choice, but residents do not have the right to delay a transfer because a unit in the location they prefer is not available at the time they are required to transfer.

C. Priorities for Transfers

1. As described in the Tenant Selection and Assignment Plan section of this policy, transfers will be sorted into their appropriate categories by the intake and placement staff. Offers of apartments will be made in the following order:
 - a. Emergency transfers;
 - b. Administrative transfers.¹⁸

D. Residents in Good Standing

1. In general, and in all cases of all resident-requested transfers, residents will be considered for transfers only if the head of household and other family members and guests under the resident's control:
 - a. Are current on rent without unpaid balance at any time in the past 12 months, or current on a repayment agreement for the past 12 months; and
 - b. Are current on utility payments to DHA or to utility supplier, or are current with any repayment agreement with DHA or utility supplier; and
 - c. Are in compliance with the terms of the lease and any additional terms required to be

¹⁸ Administrative transfers will be processed in priority order, as explained in the section "Making Unit Offers to Transferees and Applicants".

added to that lease by federal law. Violations of the lease must be documented by notices of lease violations or other evidence of serious or repeated violations of the material terms of the lease; and

- d. Meet reasonable housekeeping standards and have no housekeeping lease violations as documented by housekeeping inspection reports or work orders reflecting a pattern of damage caused by poor housekeeping; and
 - e. Have not destroyed, defaced, damaged, or removed any part of an apartment or the development as documented by housekeeping inspection reports or work orders reflecting a pattern of damage or abuse; and
 - f. For all resident incentive transfers, a one-year perfect record of timely payment (rent and other charges), good housekeeping record, and no lease violations is required.
- 2. Exceptions to the good record requirements may be made for emergency transfers or when it is to DHA's advantage¹⁹ to make the transfer. The exception to the good record requirement will be made by DHA staff in the housing operations department, taking into account the recommendation by the manager.
 - 3. Absent a determination of exception, the following policy applies to transfers:
 - c. If back rent is owed, the resident will not be transferred until a payment plan is established or, if prior payment plans have failed, back rent is paid in full.
 - d. A resident with housekeeping standards violations will not be transferred until he/she passes a follow-up housekeeping inspection.

E. Cost of Transfers

- 1. DHA will pay the cost of transfers it initiates, and reasonable accommodation transfers, but not those due to changes in family size (overcrowding and over housing), or change in income tier.
- 2. Transfers in connection with modernization or revitalization will include moving expenses, including the cost of disconnecting and reconnecting utilities.

F. Transfers at Section 8 project-based and Housing Tax Credit Properties

- 1. Not all the properties DHA owns and manages are public housing properties. Some are multifamily Section 8 new construction developments, and others are housing tax credit properties. Because DHA operates properties under multiple programs, public housing tenants may not be able to transfer to or from these properties. They must, instead, be processed as applicants.
- 2. Current tenants of Section 8 project-based developments or tax credit properties may be transferred within the properties, but not to other developments. These transfers will be handled by DHA's housing operations department.

¹⁹ E.g. a single person is living alone in a three bedroom unit and does not want to move.

VI. Annual Re-examinations of Income and Family Circumstances

A. Eligibility for Continued Occupancy

1. Residents who meet the following criteria will be eligible for continued occupancy:
 - a. Qualify as a family as defined in Section XIII of this policy.²⁰
 - b. Are in full compliance with the resident obligations and responsibilities, as described in the dwelling lease, as documented by a lack of lease violation notices in their files. **24 CFR § 966.4(f)**
 - c. Whose family members each have verified Social Security Numbers. **24 CFR § 5.216**
 - d. Who meet HUD standards on citizenship or immigration status, or are paying a pro-rated rent. **24 CFR § 5.5**
 - e. Who are in compliance with DHA's community service requirements, if applicable.²¹

B. Remaining Family Members and Prior Debt

1. If the head of household dies or leaves the unit, continued occupancy by remaining family members is permitted only if:
 - a. The family reports the departure (or death) of the head of household within 10 days of the occurrence; and
 - b. The family includes a member who can pass screening, and is either of legal age to execute a lease, or is a court-recognized emancipated minor; and
 - c. The new head signs a new lease within 10 calendar days of the departure/death of the former head.
2. Remaining family members age 18 years or older will be held responsible for debts incurred by the former head or spouse.
3. DHA will not hold remaining family members (other than the head or spouse) responsible for any portion of the debt incurred *before the remaining member attained age 18*.

C. Re-examinations

1. Regular re-examinations: DHA shall, at least once every 12 months, re-examine the family composition and incomes of all resident families, except that public housing families paying flat rent shall have their incomes re-examined only every three years. DHA may take a streamlined approach to the verification of income for families with fixed incomes, using COLA²² percentages and interest rates rather than independent verification. **24 CFR § 960.257**
2. For a family with total net assets equal to or less than, \$5,000, DHA may accept, for purposes of recertification of income, a family's declaration that it has net assets equal to or less than

²⁰ For purpose of continued occupancy, remaining family members qualify as a family so long as at least one of them is of legal age to execute a lease. Remaining family members can also include court recognized emancipated minors under age 18.

²¹ Applicable to certain adults who are not exempted because they are elderly, disabled and unable to work, working, or participating in qualifying educational or job training programs.

²² Cost of living allowance.

\$5,000, without taking additional steps to verify the accuracy of the declaration. **24 CFR § 982.516**

- a. If a family submits such a declaration, the declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.
 - b. A PHA must obtain third-party verification of all family assets every 3 years.
3. Special re-examinations: When it is not possible to estimate family income accurately, a temporary determination will be made with respect to income and a special re-examination will be scheduled every 120 days until a reasonably accurate estimate of income can be made. **24 CFR § 5.609(d)**
 4. A special re-examination shall be conducted when there is a change in the head of household that requires a remaining family member to take on the responsibilities of a leaseholder. **24 CFR § 960.257**
 5. Zero-income families: Unless the family has income that is excluded for rent computation (e.g. the family receives state funding for the care of foster children), families reporting zero income will have their circumstances examined every 90 days until they have a stable income. As required by federal regulations, monetary or non-monetary contributions from persons not residing in the dwelling unit for any purpose other than the payment or reimbursement of medical expenses shall be considered income. **24 CFR § 5.609**
 6. If DHA is terminating the lease of a resident when the resident is scheduled for re-examination, the re-examination will be completed but a new lease will not be executed:
 - a. If DHA prevails in the lease termination action, a new lease will not be executed, and the resident will be evicted.
 - b. If the resident prevails in the lease termination action, a new lease will be executed.
 7. Action following re-examination: If there is any change in rent, the lease will be amended, a new lease will be executed, or a Notice of Rent Adjustment will be issued. **24 CFR § 966.4(a)(3)**
 - a. If any change in the apartment size is required, the resident will be placed on a transfer list in accordance with the transfer criteria described in this policy, and moved to an appropriate apartment when one becomes available. **24 CFR § 966.4(c)(3)**
 - b. The notice of rent adjustment will include the current rent, the new rent, the date when the new rent takes effect, the reason for the rent adjustment, and the fact that the resident has the right to request a grievance hearing if he/she disagrees with, or does not understand the new rent.
 - c. Effective date of adjustments:
 - 1) Residents will be notified in writing of any rent adjustment including the effective date of the adjustment.
 - 2) Rent decreases go into effect the first of the month following the report of a change.
 - 3) Income decreases reported or verified after the tenant accounting cut-off date, will be effective the first of the second month, with a credit retroactive to the first month.

- 4) Rent increases (except those due to misrepresentation) require 30 days' notice and become effective the first day of the following month.
- 5) Rent increases due to misrepresentation are retroactive to the first of the month following the event that was misrepresented or not reported.

8. Over Income Families: After a public housing resident's household income has exceeded 120 percent of the area median income (AMI) for two consecutive years, DHA must terminate the family's tenancy within six months of the second income determination.

- a. 120 percent of AMI, as published annually by HUD, is referred to as the "over income limit".
- b. When DHA becomes aware, by annual or interim re-examination, that a family's income exceeds the applicable income limit, DHA will document such information in the family's file to compare with the family's income one year later.

- 1) If the family's income at next re-examination, continues to exceed the over income limit, then DHA must provide written notification to the family. Notification must specify that if the family's income continues to exceed the over income limit for two consecutive years, the family will be subject to termination in compliance with the HUD regulations and in accordance with DHA's over income policy.

- 2) If the family's income decreases below the over income limit during the first or second year, then the over income procedures that would otherwise lead to termination of rental housing assistance no longer apply. The family is entitled to a new two-year grace period and the two-year clock resets, and starts over should the family's income exceed the over income limit again in the future.

- c. Over income limit thresholds and an example of timelines are outlined in the tables below:

Sample Timeline (Over Income at Annual Recertification)

Clock	Re-examination Date	Re-examination Type	Income Status	DHA Action
Year 0	8/1/2015	Annual	Low-Income	<i>Complete re-examination.</i>
Begin 2 year clock	8/1/2016	Annual	Over-Income	<i>DHA staff must document over-income status for re-verification one year later. Notice to the client is not required at this point.</i>
1 year later; half-way through 2 year clock	8/1/2017	Annual	Over-Income	<i>DHA conducts annual re-examination to compare current income with that of one year ago. Send written notice to family of over-income status for one year. If over-income for two consecutive years, then housing assistance may be terminated.</i>

1 year later; complete 2 year clock	8/1/2018	Annual	Over-Income	Send written notice to family of over-income status for two consecutive years. Housing assistance will be terminated 6 months from the date of this letter.
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Sample Timeline (Over Income at Interim Recertification)

Clock	Re-examination Date	Re-examination Type	Income Status	DHA Action
Year 0	8/1/2015	Annual	Low-Income	Complete re-examination.
Begin 2 year clock	11/1/2015	Interim	Over-Income	DHA staff must document over-income status for re-verification one year later. Notice to the client is not required at this point.
	8/1/2016	Annual	Over-Income	Document over-income status. Notice to the client is not required at this point.
1 year later; half-way through 2 year clock	11/1/2016	Interim	Over-Income	DHA conducts interim re-examination to compare current income with that of one year ago. Send written notice to family of over-income status for one year. If over-income for two consecutive years, then housing assistance may be terminated.
	8/1/2017	Annual	Over-Income	Document over-income status. Notice to the client is not required at this point.
1 year later; complete 2 year clock	11/1/2017	Interim	Over-Income	Send written notice to family of over-income status for two consecutive years. Housing assistance will be terminated six months from the date of this letter.

VII. Interim Rent Adjustments - Modified Fixed Rent System

A. Adjusting Rent between Regular Re-examinations

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

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

<i>INCOME CHANGE</i>	<i>DHA ACTION</i>
Decrease in income for any reason, <u>except</u> for decrease that lasts less than 30 days or subject to imputed welfare income rules ²³ .	Process interim rent reduction if income decrease will last more than 30 days. 24 CFR § 5.609
Increase in verified family deductions	Process interim rent reduction if income decrease will last more than 30 days. 24 CFR § 5.609
Increase in income following DHA granting interim rent decrease.	Process interim increase for income increases after interim rent reductions.
Increase in earned income from the employment of a current household member. Note: If the family is at a project-based rental assistance multifamily property, an interim is still required for cumulative increases of more than \$200/month.	Defer rent increase until next regular re-examination. 24 CFR§ 960.255
Increase in unearned income (e.g. COLA adjustment for social security).	Defer rent increase to the next regular re-examination.
Increase in income because a person with income (from any source) joins the household.	Conduct an interim redetermination of the family's income and raise the rent.
Increase in monetary or non-monetary income after resident claims zero income	Process an interim rent increase.

3. DHA will process an interim increase in rent only if:
- The resident has misrepresented or failed to report facts upon which rent is based, so the rent the resident is paying is less than it should have been²⁴; or
 - The resident's income increases after the resident was granted an interim decrease in rent; or
 - The resident reported zero income and has a verified increase in income (that may be a non-monetary contribution); or
 - A person with income joins the household; or

²³ Decreases in welfare income resulting from welfare fraud, or from cuts for failure to comply with economic self-sufficiency requirements, are not eligible for rent reductions (**24 CFR § 5.615**).

²⁴ DHA will apply any increase in rent retroactive to the month following the month in which the misrepresentation occurred.

- e. The family resides at a project-based rental assistance multifamily property (Estelle, Forest Green, or Lakeland), and the family has a cumulative increase in income of more than \$200 per month.
4. Complete verification of the circumstances applicable to rent adjustments must be documented and approved according to DHA's *Procedure on Verification of Information* **24 CFR § 960.259(c)**
5. DHA will process interim decreases in rent as follows:
 1. When a decrease in income is reported, and DHA verifies that the decrease will last less than 30 days, an interim adjustment will not be processed.
 2. Residents reporting decreases in income that are expected to last more than 30 days will have an interim adjustment processed.
6. Residents granted a reduction in rent are required to report for special re-examinations at intervals determined by the housing manager. Reporting is required until income increases or it is time for the next regularly scheduled re-examination, whichever occurs first.
7. If residents experience a decrease in income from public assistance because their grant is cut for one of the two following reasons, their rent will not be reduced:
 - a. Welfare department has reduced the grant because of welfare fraud; or
 - b. Welfare department has reduced the grant because the family failed to comply with economic self-sufficiency requirements.
8. If a resident challenges the welfare department's reduction of their grant, an interim reduction in rent will not be processed until the matter is settled by the welfare department.
9. If the welfare department upholds the grant reduction, the resident shall owe a retroactive rent on the interim rent reduction that was processed.
10. If the welfare department overturns the grant reduction, no retroactive balance is owed. See DHA's *Procedure on Imputed Welfare Income*.

B. Interim Changes in Family Composition

1. All changes in family composition must be reported within 10 days of occurrence. Certain types of changes do not require DHA advance approval, but they must be reported within 10 days of occurrence, including:
 - a. Someone listed on the lease leaving the unit; or
 - b. Birth, adoption, or court-awarded custody of a child.
2. Additions of the following persons must be requested in writing and require written permission from DHA before the persons may move into the apartment:
 - a. Adult family member (including a new spouse);
 - b. Foster child or children;
 - c. Foster adult;
 - d. Live-in aide; or

- e. Child in kinship care.
- 3. All adults who are proposed for addition to a family or household must be screened by the housing operations department and, with the exception of live-in aides, must not overcrowd the unit. See DHA's *Procedure on Additions to and Deletions from the Household*.
- 4. All requests to remove a household member (e.g. as a result of the member being involved in criminal activity that threatens the entire family with program termination), must be accompanied by substantial supporting documentation that the member to be removed from the assisted household now resides at another address. The member to be removed may appear at DHA in person to remove themselves, or may provide documentation of their move to the HOH. Examples of such documentation could include utility bills in the name of the subject, canceled checks verifying payment of rent, driver's license indicating address is at a location corresponding to the utility billing or lease, or in their name at another location. The HOH will be given 10 days to provide such documentation. In the event that the family member who is being removed is uncooperative and refuses to provide such documentation, the HOH must provide a written statement that describes why the member is being removed from the assisted household, and why no other documentation of that move is available. If the HOH fails to respond with either supporting documentation or written statement, then the household will be recommended for termination of housing assistance.
- 5. When the change in family size would require the family to transfer to a smaller or larger unit, the family will be placed on the central transfer list as soon as the change in family circumstances is verified. Transfers will be processed in accordance with this policy and DHA's *Procedure on Transfers*.

C. Earned Income Disallowances – Public Housing ACC Residents Only

- 1. If a resident goes to work or has new or additional earned income and qualifies under one of the following three criteria, that individual will receive an earned income disallowance (EID), as described below and in DHA's *Procedure on Earned Income Disallowances*. To qualify, a public housing resident:
 - a. Goes to work after having been unemployed for at least twelve months, or goes to work after having earned less in the last 12 months than would be earned working 10 hours per week for a fifty-week year earning minimum wage; or
 - b. Receives new or increased earned income during participation in an education, job training, or other economic self-sufficiency activity; or
 - c. Receives new or increased earned income within six months of having received a cash benefit or in-kind services funded through the program of Temporary Assistance to Needy Families (TANF). If an in-kind benefit (child care, clothing, or transportation subsidies, for example) was received it must be worth at least \$500 in the past six months.
- 2. During the first 12 months after the date when the resident qualified for the EID, the

resident's rent will not be increased because of the new earned income. Rent during this period will be based on the resident's income before qualifying for the EID, plus any increases in unearned income that may occur after qualifying for the EID.

3. During the second 12 months after the date the resident qualified for the EID, the resident's rent will be increased by an amount based on 50 percent of the resident's incremental earned income.
4. If the resident stops working, the disallowance stops and resumes again when the resident goes back to work. During the period when the resident is not employed, rent will be based on the resident's actual income.
5. Even if the full 24 months of disallowance (12 months of full disallowance, plus 12 months of 50% disallowance) have not been used, the EID will terminate 24 months from the date when the resident first qualified for the EID.
6. An EID is awarded to a person, not an entire family. More than one adult family member can receive an EID at the same time if they qualify.
7. No one receives more than one EID in a lifetime.
8. A resident may qualify for a retroactive EID if all of the following are true:
 - a. The resident qualified for an EID after 10/1/99; and
 - b. The resident reported the increased income; and
 - c. DHA increased the resident's rent; and
 - d. The resident paid the increased rent.
9. Before the amount potentially owed to a resident for a retroactive rent credit is determined, any amounts owed to DHA by the resident shall be deducted.
10. If a resident qualifies for a retroactive EID, he/she shall be entitled to the choice of a payment of the retroactive amount due as calculated above, or a prospective rent credit.

VIII. Lease Termination Policies

A. General Policy on Lease Terminations for Public Housing Subsidy Properties

1. Either DHA or a resident may terminate tenancy at any time, in accordance with all applicable federal, state, and local laws and the lease terms. **24 CFR § 966.4(l)**

B. Resident-initiated Lease Terminations for Public Housing Subsidy Properties

1. A resident may terminate tenancy by providing 30 days' written notice to DHA or housing manager in accord with DHA's *Procedure on Lease Terminations*.

C. DHA-initiated Lease Terminations for Public Housing Subsidy Properties

1. The DHA or housing manager shall terminate the lease only for serious or repeated violations of the material provisions of the lease or other good cause. **24 CFR § 966.4(l)**
2. The DHA or housing manager shall give written notice of proposed lease termination in the form required by the lease and applicable regulations, in English or Spanish, or, in the case of a resident with disability, in the format requested by the resident. **24 CFR § 966.4(l)**
3. In accordance with the lease and grievance procedure, DHA shall notify the resident in the lease termination notice of the resident's grievance rights if the lease termination is subject to the grievance procedure.
 - a. DHA is sensitive to the possibility that certain actions of a resident may be related to, or the result of, domestic violence, dating violence, sexual assault, or stalking (see Definitions in Section XIII), and will offer a resident in this situation an opportunity to certify to such facts.
 - b. The Violence Against Women Act (VAWA) protects individuals who are the victims of such crimes and misdemeanors, known collectively as VAWA crimes, from lease termination and eviction for criminal activity related to their victimization.
 - c. Victims have 14-days to certify (on HUD 5382) or provide other documentation to certify their status as a victim.
 - 1) DHA requires verification of VAWA crimes. This may be accomplished in one of three ways:
 - i. Completing HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking".
 - ii. Providing other documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the side effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury that the incident or incidents in question are bona fide and meet the requirements of the applicable definition set forth in this procedure.
 - iii. Providing a police or court record to DHA by federal, state, tribal, or local police or court, which describes the incident(s) in question.
 - d. Victims of VAWA crimes *may* qualify for an emergency transfer if they either reasonably believe there is a threat of imminent harm from further violence if they remain in their dwelling unit, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.
 - e. Notice is provided to applicants and residents liberally at admission, recertification, termination, and denial of assistance on HUD 5380.
 - f. Detailed procedures on emergency transfers are covered in DHA's *Procedure on VAWA Crimes*.

4. If a non-exempt member of a resident family fails to comply with the 8-hour-per-month community service requirement, the entire family may be subject to lease termination. In such cases the resident and DHA may enter into a contract to make up the delinquent service hours within the 12 months following the period for which hours are delinquent. If, at any time during this period, the individual fails to perform both the current and delinquent hours agreed to, DHA will terminate tenancy.
5. The community service requirement does not apply to properties that are project-based Section 8 or to housing tax credit units that do not receive HUD public housing operating subsidy.

D. Notification Requirements for Public Housing Subsidy Properties

1. The DHA's written Notice of Lease Termination will state the reason for the proposed termination, the section of the lease violated, the details of the reason for termination, the date the termination will take place, and will indicate the tenant's rights under Texas law and this policy.
2. The Notice of Termination may run concurrent with any Notice to Vacate or other notification required by Texas law.
3. Notices of Lease Termination may be personally served on a member of the tenant household who is at least 15 years old, may be taped to the inside of the front door of the unit, or may be delivered by first class mail.
4. When DHA terminates the lease, written notice will be provided as follows:
 - a. 14 days prior to termination for failure to pay rent;
 - b. Three (3) days prior to termination, consistent with the exigencies of the situation in cases of violent or drug-related criminal activity that threatens other residents, staff, or neighbors of the property; or
 - c. At least 30 days prior to termination in all other cases.

E. Eviction Actions for Public Housing Subsidy Properties

1. DHA may evict a resident only by bringing a court action.
2. The constable's office or another legally authorized department is the only entity authorized to execute an eviction.
3. If DHA files an eviction action against a resident, the resident will be liable for court costs, including attorney's fees, unless the resident prevails in the action.
4. DHA is not required to prove that the resident knew or should have known that a family member, household member, guest, or other person under the resident's control was engaged in the action that violated the lease. The resident must prove this defense by the preponderance of the evidence.
5. In deciding whether or not to evict for criminal activity, DHA may consider all the circumstances of the case, including the seriousness of the offense, the extent of participation by family members, and the effect that the eviction would have on family

members not involved in the proscribed activity.

6. In appropriate cases of criminal activity by a family member other than the head or spouse, DHA may permit continued occupancy by remaining family members, and may impose a condition that the family member(s) who engaged in the proscribed activity will neither reside in, nor visit the dwelling unit or the property.
7. DHA may require a resident who has engaged in the illegal use of drugs to present evidence of successful completion of a treatment program as a condition to be allowed to visit and/or reside in the dwelling unit.
8. DHA may require that the remaining family members live in strict compliance with the lease and that the family be placed on lease probation for an appropriate period of time.
9. Once an eviction occurs, DHA shall notify the Post Office that mail should no longer be delivered to the tenant at the dwelling unit.

F. Record keeping Requirements for Public Housing Subsidy Properties

1. A written record of every termination and/or eviction shall be maintained by DHA, and shall contain the following information:
 - a. Name of resident, resident's race and ethnicity, number and identification of apartment occupied;
 - b. Date of the Notice of Lease Termination and any other state or local notices required, which may be on the same form and run concurrently;
 - c. For lease terminations for criminal activity, a note in the file with the date, case number, and source of information relating to the Notice of Arrest or Notice of the Incident;
 - d. For "cause" lease terminations, copies of any occurrence reports, lease violation notices, or other appropriate documentation of the underlying facts surrounding the incident that is the subject of the eviction;
 - e. Specific reason(s) for the notice(s), with section of the lease violated, and other facts pertinent to the issuing of the notice(s) described in detail;
 - f. Date and method of notifying resident;
 - g. Summaries of any conferences held with resident including dates, names of conference participants and conclusions;
 - h. Copy of the served Termination Notice;
 - i. Copy of any agreed settlement orders; and
 - j. Copy of any post-judgment agreements.

G. General Policy on Lease Termination for Non-Public Housing Subsidy Properties

1. Non-public housing subsidy properties refer to those such as Section 8 project-based properties, multifamily properties, and housing tax credit units not receiving HUD operating subsidy.
2. Either DHA or the resident may terminate tenancy at any time in accordance with all applicable federal, state, and local laws and the lease terms.

H. Resident-initiated Lease Terminations for Non-Public Housing Subsidy Properties

1. Resident may terminate tenancy by providing 30 days' written notice to DHA or housing manager in accordance with DHA's *Procedure on Lease Terminations*.

I. DHA-initiated Lease Terminations for Non-Public Housing Subsidy Properties

1. DHA or its manager shall terminate the lease only for substantial lease violations or repeated violations of the lease that disrupt the livability of the community, adversely affect the health, safety, or right to peaceful enjoyment of the leased premises of any tenant, interfere with the management of the community, or have an adverse financial effect upon the community, or failure to carry out obligations under the State of Texas Property Code or other good cause (only at the expiration of the lease term).
2. Manager shall give written notice of proposed lease termination in the form required by the lease, and applicable regulations in English, or Spanish, or, in the case of a resident with disability, in the format requested by the resident.
3. Although under HUD regulations, project-based Section 8 and housing tax credit units that do not receive HUD operating subsidy are not subject to the public housing grievance procedure, DHA has chosen to make this forum available in all the properties it manages. Consequently, in accordance with the grievance procedure rules, DHA shall notify the resident in the lease termination notice of the resident's grievance rights if the lease termination is subject to the grievance procedure.
 - a. DHA is sensitive to the possibility that certain actions of a resident may be related to, or the result of, domestic violence, dating violence, sexual assault, or stalking (see Definitions in Section XIII), and will offer a resident in this situation an opportunity to certify to such facts.
 - b. The Violence Against Women Act (VAWA) protects individuals who are the victims of such crimes and misdemeanors from lease termination and eviction for criminal activity related to their victimization.
 - c. Victims have 14 days to certify (on HUD 5382) or provide other documentation to certify their status as a victim.
 - 1) DHA requires verification of VAWA crimes. This may be accomplished in one of three ways:

- i. Completing HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking".
 - ii. Providing other documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the side effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury that the incident or incidents in question are bona fide and meet the requirements of the applicable definition set forth in this procedure.
 - iii. Providing a police or court record to DHA by federal, state, tribal, or local police or court, which describes the incident(s) in question.
- d. Victims of VAWA crimes *may* qualify for an emergency transfer if they either reasonably believe there is a threat of imminent harm from further violence if they remain in their dwelling unit, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.
- e. Notice is provided to applicants and residents liberally at admission, recertification, termination, and denial of assistance on HUD 5380.
- f. Detailed procedures on emergency transfers are covered in DHA's *Procedures on VAWA Crimes*.

J. Notification Requirements for Non-Public Housing Subsidy Properties

1. DHA's written Notice of Lease Termination will state the following:
 - a. The date the lease will be terminated;
 - b. The grounds for termination with enough detail for the tenant to prepare a defense. If the grounds are non-payment of rent, the notice must state the amount of balance due and the date of that computation;
 - c. That if the tenant remains in the unit beyond the date specified for termination, that DHA may enforce the termination only by bringing judicial action, at which time the tenant may present a defense;
 - d. That the tenant has 10 calendar days within which to discuss the proposed termination of tenancy with the manager. The 10 calendar days will start on the earlier of the date the notice was hand delivered or the day after the date the notice was mailed;
 - e. Failure of the tenant to object to the termination notice does not constitute a waiver of the tenant's right to contest DHA's actions in any court proceeding;
 - f. Termination notices for "other good cause" must provide that the proposed termination will be effective at the later of the end of the lease term or 30 days from the date of the notice;
 - g. The Notice to Vacate may run concurrent with any notice required by state law;

- h. Notices of Lease Termination may be personally served on a member of the tenant household who is at least 15 years old, taped to the inside of the unit's front door, or may be mailed by first class mail;
- i. When the DHA terminates the lease, written notice will be provided as follows:
 - a. 10 days prior to termination for failure to pay rent;
 - b. 10 days prior to termination, consistent with the exigencies of the situation in cases of violent or drug related criminal activity; or
 - c. At least 30 days prior to termination in all other cases.

K. Eviction Actions for Non-Public Housing Subsidy Properties

1. DHA may evict a resident only by bringing a court action.
2. The constable's office or another legally authorized department is the only entity authorized to execute an eviction.
3. If DHA files an eviction action against a resident, the resident will be liable for court costs, excluding attorney's fees, unless the resident prevails in the action.
4. DHA is not required to prove that the resident knew or should have known that a family member, household member, guest, or other person under the resident's control was engaged in the action that violated the lease.
5. The resident may raise as a defense that the resident did not know nor should have known about the action that violated the lease.
6. The resident must prove this defense by the preponderance of the evidence.
7. In deciding whether or not to evict for criminal activity, DHA may consider all the circumstances of the case, including the seriousness of the offense, the extent of participation by family members, and the effect that the eviction would have on family members not involved in the proscribed activity.
8. In appropriate cases, DHA may permit continued occupancy by remaining family members, and may impose a condition that the family members who engaged in the proscribed activity will neither reside in nor visit the dwelling unit.
9. DHA may require a resident who has engaged in the illegal use of drugs to present evidence of successful completion of a treatment program as a condition to be allowed to visit and/or reside in the dwelling unit.
10. DHA may require that the remaining family members live in strict compliance with the lease and that the family be placed on probation for an appropriate period of time.
11. Once an eviction occurs, DHA shall notify the Post Office that mail should no longer be delivered to the tenant at the dwelling unit.

L. Record Keeping Requirements for Non-Public Housing Subsidy Properties

1. A written record of every termination and/or eviction shall be maintained by DHA, and shall

contain the following information:

- a. Name of resident, race and ethnicity, number and identification of apartment occupied;
- b. Date of the Notice of Lease Termination and any other state or local notices required, which may be on the same form and run concurrently;
- c. For lease terminations for criminal activity, a note in the file with the date, case number and source of information relating to the Notice of Arrest or Notice of the Incident;
- d. For “cause” lease terminations, copies of any occurrence reports, lease violation notices, or other appropriate documentation of the underlying facts surrounding the incident that is the subject of the eviction;
- e. Specific reason(s) for the notice(s), with section of the lease violated, and other facts pertinent to the issuing of the notice(s) described in detail;
- f. Date and method of notifying resident;
- g. Summaries of any conferences held with resident including dates, names of conference participants and conclusions;
- h. Copy of the served Termination Notice;
- i. Copy of any agreed settlement orders; and
- j. Copy of any post-judgment agreements.

IX. Utilities

A. Resident-Paid Utilities

1. The following requirements apply only to residents living in developments with resident-paid utilities: **24 CFR § 965 & 966.4(b)(2)**
 - a. In units with resident-paid utilities, paying the utility bill in a timely manner is an obligation under the lease, and failure to pay in a timely manner is a serious violation of the lease, subject to lease termination. **24 CFR § 960.253(c)(3) and 966.4(b)**
 - b. If a resident or applicant is unable to get utilities connected in his/her own name because of bad credit or a previous balance owed to the utility company at a prior address, the resident or applicant will not be permitted to move into a unit with resident-paid utilities. Depending upon the size and type of unit an applicant needs, the inability of an applicant to get utilities connected may cause the application to be rejected. **24 CFR § 960.203**
 - c. When a resident makes an application for utility service in his/her own name, he or she is required to sign a third-party notification agreement so that DHA will be notified if the resident fails to pay the utility bill.
 - d. Each resident will receive a monthly utility allowance that reflects a reasonable amount of utilities for the specific size and type of apartment occupied. **24 CFR § 5.609**
 - e. Residents who pay their utility bills directly and are paying an income-based rent have the amount of rent owed to DHA reduced by the amount of the utility allowance. In other words, the resident’s total tenant payment, less the utility allowance equals the tenant

rent owed to DHA.

- f. When a resident's total tenant payment is less than the utility allowance, DHA will pay a utility reimbursement, equal to the difference between one month's total tenant payment and the utility allowance to either the tenant or the utility supplier. **24 CFR § 5.632.** When the value of the utility reimbursement is less than \$15 per month, reimbursements will be paid quarterly rather than monthly.
- g. Residents on whose behalf utility reimbursements are paid to the utility company are required to pay the utility supplier for any use in excess of that covered by the utility allowance.
- h. If the resident's actual utility bill is less than the utility allowance, the resident receives the savings.
- i. Residents who have elected to pay a flat rent do not receive a utility allowance. The value of the utilities paid by the resident have already been deducted from the flat rent.

B. Excess Utility Charges

- 1. In buildings that are check-metered, residents shall have consumption-based utility allowances that reflect the size and type of units and actual equipment provided by DHA. Check meters are read by DHA and each tenant charged only for consumption in excess of the utility allowance at the rate paid by DHA.
- 2. In buildings where utilities are not individually metered and there are no check meters, DHA may make excess utility charges for the use of certain resident-supplied appliances in excess of those supplied by DHA. Examples include:
 - b. Second refrigerator;
 - c. Freezer.

C. Reasonable Accommodations

- 1. Residents with disabilities may be entitled to higher than normal utility allowances or may not be charged for the use of certain resident-supplied appliances, if there is a verified need for special equipment because of the disability. **24 CFR § 8.4 and 966.7**

X. Flat Rents (Public Housing Subsidy Properties Only)

- a. Flat rent payments are available to public housing subsidy properties only.
 - a. Flat rents shall be determined in accordance with HUD regulations.
 - b. Flat rents vary by apartment size and type, and also by development location.
 - c. Flat rent payers do not receive a utility allowance. An apartment with resident-paid utilities will have a lower flat rent than the same apartment with development-paid utilities.

A. Annual Update of Flat Rents

- a. DHA shall review the flat rent structure annually and adjust the rents as needed.
- b. Flat rents may either be increased or decreased based on HUD's published fair market rents.
- c. When a resident chooses flat rent, his/her rent shall be adjusted only at the next annual re-

examination, rather than when DHA may revise the flat rents.

B. Choice of Rent

1. Once each year, beginning with admission and continuing at each annual re-examination, each family is offered a choice between paying the income-based rent and the flat rent, applicable to the unit they will be occupying.
2. Because of the way the federal law is written, choice of flat rent may only be offered at admission and annual re-examination.

C. Recertification of Families on Flat Rents

1. Families paying flat rents are required to recertify income only every three years, rather than annually. They are required to participate in annual re-examinations to ensure that apartment size is still appropriate and community service requirements (if applicable) are met. **24 CFR § 960.257 (a)(2)**

D. Hardship Reduction in Flat Rents

1. If a resident who opted for flat rent experiences a decrease in income, management will perform an interim re-examination of Income.
2. If the reduction in income will last more than 30 days, management will reduce rent to the income-based rent based on verified income information. **24 CFR § 960.253 (f)**
3. If the Resident's income rises again before the annual re-examination, the resident must pay the income-based rent until the next annual re-examination.

XI. Determining Income and Rent

1. Annual Income

1. DHA shall use HUD's definition of annual income. Should this definition be revised, HUD's definition, rather than that presented below shall be used. **24 CFR § 5,609**
2. Annual income is the anticipated total income from all sources, including net income derived from assets, received by the family head and spouse (even if temporarily absent), and by each additional family member including all net income from assets for the 12-month period following the effective date of initial determination or re-examination of income, exclusive of income that is temporary, non-recurring, or sporadic as defined below, or is specifically excluded from income by other federal statute. Annual income includes but is not limited to:
 - a. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
 - b. The net income from operation of a business or profession, including any withdrawal of cash or assets from the operation of the business. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining the net income from a business. An allowance for the straight line depreciation of assets used in a business or profession may be deducted as provided in

IRS regulations. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the business;

- c. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for the straight line depreciation of real or personal property is permitted. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the property;
 - d. If the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate as determined by HUD;
 - e. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts²⁵;
 - f. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay²⁶;
 - g. All welfare assistance payments (Temporary Assistance to Needy Families, or TANF) received by or on behalf of any family member of any age;
 - h. Periodic and determinable allowances, such as alimony and child support payments, and regular cash and non-cash contributions or gifts, received from agencies or persons not residing in the dwelling, made to or on behalf of family members; and
 - i. All regular pay, special pay, and allowances of a family member in the Armed Forces.²⁷
3. For a family with total net assets equal to or less than, \$5,000, DHA may accept, for purposes of recertification of income, a family's declaration that it has net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. **24 CFR § 960.259**
- a. If a family submits such a declaration, the declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.
 - b. A PHA must obtain third-party verification of all family assets every 3 years.

2. Excluded Income

- 1. Annual income does not include the following: **24 CFR § 5.609**
 - a. Income from the employment of children (including foster children) under the age of 18 years;
 - b. Lump sum additions to family assets, such as inheritances, insurance payments

²⁵ Delayed or deferred periodic payments of social security or supplemental security income benefits receive special consideration.

²⁶ Lump-sums are sometimes treated as assets instead of income, and receive special consideration. See the section on Excluded Income (B.1.I.).

²⁷ Special pay for exposure to hostile fire receives special consideration. See the section on Excluded Income (B.1.I.).

- (including payments under health and accident insurance, and worker's compensation), capital gains, one-time lottery winnings, and settlement for personal property losses^{28,29}
- c. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
 - d. Income of a live-in aide, provided the person meets the definition of a live-in aide;
 - e. The full amount of student financial assistance paid directly to the student or the educational institution;
 - f. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
 - g. Certain amounts received that are related to participation in the following programs:
 - a. Amounts received under HUD funded training programs (e.g. Step-up program: excludes stipends, wages, transportation payments, child care vouchers, etc. for the duration of the training);
 - h. Amounts received by a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - i. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) to allow participation in a specific program;
 - j. Incremental earnings and/or benefits resulting to any family member from participation in qualifying state or local employment training program (including training programs not affiliated with the local government), and training of family members as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for a limited period as determined in advance by DHA;
 - k. Temporary, non-recurring, or sporadic income (including gifts);
 - l. Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
 - m. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of the household and spouse);
 - n. Adoption assistance payments in excess of \$480 per adopted child;
 - o. The incremental earnings and benefits to any resident:
 - 1) Whose annual income increases due to employment of a family member who was unemployed for one or more years previous to employment; or
 - 2) Whose annual income increases as the result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
 - 3) Whose annual income increases due to new employment or increased earnings of a family member during or within six months of receiving state-funded assistance,

²⁸ If settlements will be paid out in periodic payments, then they are treated like routine payments, not lump sums.

²⁹ Treatment of delayed or deferred periodic payments of social security, supplemental security, or Veterans Administration income benefits are also handled differently. They are explained later in this section.

benefits or services, will not be increased during the exclusion period. For purposes of this paragraph, the following definitions apply:

- i. State-funded assistance, benefits, or services means any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by DHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work programs.
 - ii. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance – provided that the total amount over a six-month period is at least \$500.
- d. During the 12-month period beginning when the member first qualifies for a disallowance, DHA must exclude from annual income any increase in income as a result of employment. For the 12 months following the exclusion period, 50% of the income increase shall be excluded.
- e. Regardless of how long it takes a resident to complete 12 working months (to complete the first exclusion) or an additional 12 working months (to qualify for the second exclusion), the maximum period for the disallowance (exclusion) is 24 total months.
- f. The disallowance of increased income under this section is only applicable to current residents and will not apply to applicants who have begun working prior to admission.³⁰
- d. Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;
- e. Deferred payments of VA disability benefits that are received in a lump sum payment;
- f. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
- g. Amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;
- h. Amounts specifically excluded by any other federal statute from consideration as income, for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937.³¹
- i. The following is a list of benefits excluded by other federal Statute:
- i. The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977; **7 USC 2017 (h)**
 - ii. Payments to volunteers under the Domestic Volunteer Service Act of 1973; **42 USC 5044 (g), 5088** Examples of programs under this Act include but are not limited to:

³⁰ One exception is if the applicant qualified as unemployed. For example, if the applicant's earnings are less than would be earned working ten hours per week at minimum wage, then the applicant would be considered unemployed.

³¹ A notice will be published in the FEDERAL REGISTER and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

- i. The Retired Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Older American Committee Service Program;
- ii. National Volunteer Antipoverty Programs such as VISTA, Peace Corps, Service Learning Program, and Special Volunteer Programs;
- iii. Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE).
- j. Payments received under the Alaska Native Claims Settlement Act; **43 USC.1626 (a)**
- k. Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes; **25 USC. 459e**
- l. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program; **42 USC 8624 (f)**
- m. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians; **P. L. 94-540, 90 State 2503-04**
- n. The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims **25 USC 1407-08**, or from funds held in trust for an Indian Tribe by the Secretary of Interior; and **25 USC 117b, 1407**
- o. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs. **20 USC 1087. Examples** of Title IV programs include but are not limited to: Basic Educational Opportunity Grants (Pell Grants), Supplemental Opportunity Grants, State Student Incentive Grants, College Work Study, and Byrd Scholarships.
- p. Payments received from programs funded under Title V of the Older Americans Act of 1965: **42 USC 3056 (f) Examples** of programs under this act include but are not limited to: Senior Community Services Employment Program (CSEP), National Caucus Center on the Black Aged, National Urban League, Association National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.
- q. Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established in the In Re Agent Orange product liability litigation;
- r. Payments received under Maine Indian Claims Settlement Act of 1980; **P.L. 96-420,94 Stat. 1785**
- s. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990; **42 USC 9858q**
- t. Earned income tax credit refund payments received on or after January 1, 1991 **26 USC 32 (j)**
- u. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- v. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990;

- w. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act;
- x. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998;
- y. Exclusion of Tax Rebate from the IRS under Economic Stimulus Act;
- z. Exclusion of income earned under temporary employment with the U.S. Census Bureau;
 - aa. Kinship Guardian assistance payments and other guardianship care payments;
 - bb. Any amount received under the School Lunch Act and the Child Nutrition Act of 1966, including reduced price lunches and food under WIC;
 - cc. Payments, funds or distributions authorized, established or directed by the Seneca Nation Settlement Act of 1990;
 - dd. Payments from any deferred Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;
 - ee. Compensation received by or on behalf of a veteran for service connected disability, death, dependency or indemnity compensation as provided by the Indian Veterans Housing Opportunity Act of 2010;
 - ff. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case *Elouise Cobell et al v. Ken Salazar*.

C. Anticipating Annual Income

1. If it is not feasible to anticipate income for a 12-month period, DHA may use the annualized income anticipated for a shorter period, subject to an interim adjustment at the end of the shorter period. (This method would be used for school bus drivers or classroom aides who are only paid for 9 months, or for tenants receiving unemployment compensation.) **24 CFR § 5.609(d)**

D. Adjusted Income

1. Adjusted income (the income upon which income-based rent is based) means annual income less the following deductions: **24 CFR § 5.611** All families are eligible, if verified, for these categories below:
 - a. Child care expenses — A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which annual income is computed, but only when such care is necessary to enable a family member to be gainfully employed, to seek employment, or to further his/her education. Amounts deducted must be unreimbursed expenses and shall not exceed:
 - 1) The amount of income earned by the family member released to work; or
 - 2) An amount determined to be reasonable by DHA when the expense is incurred to permit education or to seek employment.
 - b. Dependent deduction — An exemption of \$480 for each member of the family residing in the household (other than the head of household, or spouse, live-in aide, foster adult, or foster child) who is under eighteen years of age, or who is eighteen years of age or older and disabled, or a full-time student.

- c. Work-related disability expenses — a deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for family members with disabilities where such expenses are necessary to permit a family member(s), including the disabled member, to be employed.
 - 1) In no event may the amount of the deduction exceed the employment income earned by the family member(s) freed to work.
 - 2) Equipment and auxiliary apparatus may include but are not limited to: wheelchairs, lifts, reading devices for the visually impaired, and equipment added to cars and vans to permit their use by the disabled family member. Also included would be the annualized cost differential between a car and the cost of a van required by the family member with disabilities.
 - 3) For non-elderly families and elderly or disabled families without medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less three percent of annual income, provided the amount so calculated does not exceed the employment income earned.
 - 4) For elderly or disabled families with medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less three percent of annual income (provided the amount so calculated does not exceed the employment income earned) PLUS medical expenses as defined below.
2. Only elderly and disabled families are eligible (when verified), for the categories below:
 - a. Medical expense deduction — A deduction of unreimbursed medical expenses, including insurance premiums, anticipated for the period for which annual income is computed. Medical expenses include but are not limited to:
 - 1) Services of physicians and other health care professionals, services of health care facilities, health insurance premiums (including the cost of Medicare), prescription and non-prescription medicines, transportation to and from treatment, dental expenses, eyeglasses, hearing aids and batteries, attendant care (unrelated to employment of family members), and payments on accumulated medical bills. To be considered by DHA for the purpose of determining a deduction from income, the expenses claimed must be verifiable.
 - 2) For elderly or disabled families without work-related disability expenses: The amount of the deduction shall equal total medical expenses less three percent of annual income.
 - 3) For elderly or disabled families with both work-related disability expenses and medical expenses: the amount of the deduction is calculated as described in above in the section on work-related disability expenses.³²
 - b. Elderly/disabled household exemption — an exemption of \$400 per household. See

³² Section on Adjusted Income (D.1.c.).

definitions section.

- c. Optional deductions/exemptions: DHA may amend this policy and grant further deductions. Any such deduction would be noted here in this section. HUD does not increase operating subsidy to offset additional deductions. At the time of adoption, no optional deductions are in effect.

E. Computing Income-based Rent and Choice of Rent in Public Housing

1. Total tenant payment (TTP) **24 CFR § 5.628** the first step in computing income-based rent is to determine each family's TTP.
 - a. If the family is occupying an apartment that has tenant-paid utilities, the utility allowance is subtracted from the TTP.
 - b. The result of this computation, if a positive number, is the tenant rent.
 - c. If the TTP minus the utility allowance is a negative number, the result is the utility reimbursement, which is paid directly to the tenant or the utility company by DHA³³.
2. Total tenant payment (income-based rent) is the higher of:
 - a. 30% of adjusted monthly income; or
 - b. 10% of monthly income; but never less than the
 - c. Minimum rent of \$50; and not more than the
 - d. Flat rent, if chosen by the family.
3. Tenant rent:
 - a. Tenant rent is computed by subtracting the utility allowance for tenant supplied utilities (if applicable) from the total tenant payment.
 - b. In developments where DHA pays all utility bills directly to the utility supplier, tenant rent equals total tenant payment. **24 CFR § 5.634**
4. Minimum Rent:
 - a. The public housing minimum rent shall be \$50 per month.
 - b. The multifamily housing minimum rent shall be \$25 per month.
5. Minimum rent hardship exemption:
 - b. A hardship exemption shall be granted to residents who can document that they are unable to pay the minimum rent because of a long-term hardship (over 90 days). Examples of situations under which residents would qualify for the hardship exemption to the minimum rent are limited to the following: **24 CFR § 5.630**
 - i. The family has lost eligibility for or is applying for an eligibility determination for a federal, state, or local assistance program;

³³ Tenant reimbursements of less than \$15 per month will be paid quarterly.

- ii. requirements;
 - iii. or
 - iv. A death in the family has occurred.
- b. Being exempted from paying minimum rent does not mean the family automatically pays nothing. Instead, the family is required to pay the greater of 30% of adjusted monthly income or 10 percent of monthly income.
6. Choice of Rent (public housing only):
- a. At initial certification and at each subsequent annual re-examination, the resident shall be offered a choice of paying either the income-based rent or the flat rent applicable to the apartment they will be occupying.
 - b. When a mixed family's TTP is greater than the flat rent, DHA is required to use the TTP as the mixed family TTP. DHA subtracts from the mixed family TTP any established utility allowance, and the sum becomes the mixed family rent. **24 CFR §5.520(e)**

XII. Public Housing Family Self-Sufficiency Program

a. Program Objectives

- 1. DHA has established a Family Self-Sufficiency (FSS) Program. The objective of this program is to provide supportive services to program participants that will allow them to become self-sufficient within 5 years.
- 2. A detailed description of the FSS Program is included in DHA's FSS Action Plan.

XIII. Definitions of Terms Used in This Statement of Policies

- 1. Accessible dwelling units - when used with respect to the design, construction or alteration of an individual dwelling unit, means that the apartment is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical disabilities.
 - a. An apartment that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in **24 CFR § 8.32 & § 40** (the Uniform Federal Accessibility Standards) is "accessible" within the meaning of this paragraph.
 - b. When an individual dwelling unit in an existing facility is being modified for use by a specific individual, the apartment will not be deemed accessible, even though it meets the standards that address the impairment of that individual, unless it also meets the UFAS standards.
- 2. Accessible facility - means all or any portion of a facility other than an individual dwelling unit used by individuals with physical disabilities. **24 CFR § 8.21**
- 3. Accessible route - for persons with a mobility impairment, a continuous unobstructed path that complies with space and reach requirements of the Uniform Federal Accessibility

Standards (UFAS). For persons with hearing or vision impairments, the route need not comply with requirements specific to mobility. **24 CFR § 8.3 & § 40.3.5**

4. Adaptability - ability to change certain elements in a dwelling unit to accommodate the needs of disabled and non-disabled persons; or ability to meet the needs of persons with different types & degrees of disability. **24CFR § 8.3 & § 40.3.5**
5. Affiliated individual – means:
 - a. A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
 - b. Any other person living in the household of that individual.
6. Alteration - any change in a facility or its permanent fixtures or equipment. It does not include: normal maintenance or repairs, re-roofing, interior decoration or changes to mechanical systems. **24 CFR § 8.3 & § 8.23 (b)**
7. Applicant – an individual or a family that has applied for admission to housing.
8. Area of operation - jurisdiction of DHA as described in state law and DHA's Articles of Incorporation; the City of Dallas and all unincorporated areas within five miles of the City boundaries, as amended by the federal Settlement Agreement in Walker v. DHA and HUD.
9. Assets - assets means "cash (including checking accounts), stocks, bonds, savings, equity in real property, or the cash value of life insurance policies. Assets do not include the value of personal property such as furniture, automobiles, and household effects or the value of business assets." See the definition of net family assets, for assets used to compute annual income. **24 CFR § 5.603**
10. Auxiliary aids - means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of programs or activities. **24 CFR § 8.3**
11. Care attendant - a person that regularly visits the apartment of a DHA resident to provide supportive or medical services. Care attendants are not live-in aides, since they have their own place of residence (and if requested by DHA must demonstrate separate residence) and do not live in the public housing apartment. Care attendants have no rights of tenancy.
12. Citizen - citizen (by birth or naturalization) or national of the United States. **24CFR § 5.504**
13. Co-head of household - one of two persons held responsible and accountable for the family.
14. Community service requirements - the performance of voluntary work or duties that benefit the public and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities. See DHA's *Policy on Community Service*.
15. Covered families for welfare benefits - families who receive welfare assistance or other public assistance benefits (welfare benefits) from a state or other public agency (welfare

agency) under a program for which federal, state or local law requires that a member of the family participate in an economic self-sufficiency program as a condition for such assistance.

16. Covered person - for the purposes of lease enforcement, covered person means a tenant, any member of the tenant's household, a guest or another person under the tenant's control. **24 CFR § 5.A**
17. Dating violence - for purposes of interpreting the Violence Against Women Act (VAWA), violence committed by a person:
 - a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - 1) The length of the relationship,
 - 2) The type of relationship; and
 - 3) The frequency of interaction between the persons involved in the relationship.
18. Dependent - member of the household, other than head, spouse, sole member, foster child, or live-in aide, who is under 18 years of age, or 18 years of age or older and disabled, or a full-time student. **24 CFR § 5.603**
19. Designated family - means the category of family for whom DHA elects (subject to HUD approval) to designate a project (e.g. elderly family in a project designated for elderly families, as at Roseland Gardens) in accordance with the 1992 Housing Act. **PL 96-120**
20. Designated housing (or designated development) - a development, or portion of a development designated for elderly only or for disabled families only, in accordance with **PL 96-106**.
21. Development – the whole of one or more residential structures and appurtenant structures, equipment, roads, walks, and parking lots that are covered by a single contract for federal financial assistance, or are treated as a whole for processing or subsidy determination purposes, whether or not located on a common site. **24 CFR § 5.603**
22. Disability assistance expenses – reasonable expenses that are anticipated during the period for which annual income is computed for attendant care or auxiliary apparatus for a disabled family member that are incurred to permit an adult family member (including the person with disability) to be employed, provided that the expenses are not paid to a family member, reimbursed by an outside source. The amount of the deduction is the dollar value of care or apparatus expenses that exceed 3 percent of annual income but never more than the amount earned by all adult family members who are working.
23. Disabled family - a family whose head, spouse or sole member is a person with disabilities. (Person with disabilities is defined later in this section.) The term includes two or more persons with disabilities living together, and one or more such persons living with one or more persons including live-in aides determined to be essential to the care and well-being of

the person or persons with disabilities. A disabled family may include persons with disabilities who are elderly. **24 CFR § 5.403**

24. Displaced person – a person who is displaced by governmental action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized pursuant to federal disaster relief laws **24 CFR § 5.403(b)**. For purposes of redevelopment activities, a family may also be displaced as defined in the Uniform Relocation Act. Such families have been displaced if they have been required to permanently move from real property for the rehabilitation or demolition of such property. These families may be entitled to specified benefits under the Uniform Relocation Act. **49CFR § 24.2**
25. Divestiture income - imputed income from assets, including business assets, disposed of by applicant or resident in the last two years at less than fair market value. (See the definition of net family assets **24 CFR § 5.603** in this section.)
26. Domestic violence - for purposes of interpreting the Violence Against Women Act (VAWA), includes felony or misdemeanor crimes of violence committed by a current or former spouse, or intimate partner of the victim, by a person with whom the victim share a child in common, by a person who cohabits with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
27. Drug-related criminal activity - the illegal manufacture, sale, distribution, use or possession of a controlled substance with intent to manufacture, sell, distribute, or use the drug. **24CFR§ 5.A**
28. Economic self-sufficiency program - any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment, counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including substance abuse or mental health treatment) or other work activities. **24 CFR § 5.603**
29. Elderly family - a family whose head or spouse (or sole member) is at least 62 years of age. It may include two or more elderly persons living together, and one or more such persons living with one or more persons, including live-in aides, determined to be essential to the care and well-being of the elderly person or persons. An elderly family may include elderly persons with disabilities and other family members who are not elderly. **24 CFR § 5.403**
30. Elderly person - a person who is at least 62 years of age. **42 USC 1437a(b)(3)**
31. Eligible immigration status - for a non-citizen, verification of immigration status eligible for assisted housing consisting of a signed certification and the original copy of an acceptable USBCI document. **24 CFR § 5.0508**

32. Emancipated minor – a person under age 18 who does not live or intend to live with his/her parents, and who has been declared “emancipated” by a court of competent jurisdiction or who is legally married. An emancipated minor is eligible to be a head of household and sign a DHA lease.
33. Extremely low income (ELI) family – a family whose annual income is equal to or less than 30% of Area Median Income (AMI), as published by HUD adjusted for family size.
34. Family - two or more persons (with or without children) regularly living together, related by blood, marriage, adoption, guardianship or other operation of law who will live together in DHA housing; or two or more persons who are not so related, but are or will be regularly living together, can verify shared income or resources who will live together in DHA housing.
- a. The term family also includes, as defined herein: elderly family, near elderly family, disabled family, displaced person, single person, the remaining member of a tenant family, or a kinship care arrangement. Other persons, including members temporarily absent (e.g. a child temporarily placed in foster care or a student temporarily away at college), may be considered a part of the applicant family’s household if they are living or will live regularly with the family. **24 CFR §§ 5 and 960**
 - b. Live-in aides may also be considered part of the applicant family’s household. However, live-in aides are not family members and have no rights as “remaining family members”.
 - c. Foster care arrangements include situations in which the family is caring for a foster adult, child or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency. These individuals are household members but are not family members and have no rights as “remaining family members”.
 - d. For purposes of continued occupancy: the term family also includes the remaining member of a resident family with the capacity to execute a lease.
35. Foster adult - an adult (usually a person with disabilities) who is placed in someone’s home by a governmental agency so the family can help with his/her care. Foster adults may be members of DHA households, but they have no rights as remaining family members. The income received by the family for the care of a foster adult is excluded from annual income.
36. Full-time student - a person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. Educational institution shall include but not be limited to: college, university, secondary school, vocational school, or trade school. **24 CFR 5.603**
37. Guest – for the purposes of resident selection and lease enforcement, a guest is a person temporarily staying in the unit with the consent of the resident or other member of the household who has express or implied authority to so consent on behalf of the resident. **24 CFR § 5.A**
38. Head of the household - Head of the household (HOH) means the family member (identified by the family) who is held responsible and accountable for the family.

39. Immediate family member - for purposes of interpreting the Violence Against Women Act (VAWA), a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.
40. Imputed welfare income - the amount of annual income by which a resident's welfare grant has been reduced because of welfare fraud or failure to comply with economic self-sufficiency requirements that is, nonetheless, included in Annual Income for determining rent. **24 CFR § 5.615(b)**
41. Individual with disabilities - Section 504 definition **24 CFR § 8.3** Section 504 definitions of individual with handicaps and qualified individual with disabilities are not the definitions used to determine program eligibility. Instead, use the definition of "Person with Disabilities" as defined later in this section. Note: the Section 504, Fair Housing, and Americans with Disabilities Act (ADA) definitions are similar. ADA uses the term "individual with a disability". Individual with disabilities means any person who has:
- a. A physical or mental impairment that:
 - 1) Substantially limits one or more major life activities;
 - 2) Has a record of such an impairment; or
 - 3) Is regarded as having such an impairment.
 - b. For purposes of housing programs, the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.
 - c. Definitional elements:
 - v. "Physical or mental impairment" means:
 - i. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
 - ii. 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.
 - vi. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

- vii. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
 - viii. "Is regarded as having an impairment" means:
 - i. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation; or
 - ii. Has a physical or mental impairment that substantially limits one or more major life activities only as result of the attitudes of others toward such impairment; or
 - iii. Has none of the impairments defined in this section but is treated by a recipient as having such an impairment.
 - d. The 504 definition of disability does not include homosexuality, bisexuality, or transvestitism because these are not disabilities. These characteristics do not disqualify an otherwise disabled applicant/resident from being covered. The 504 definition of individual with disabilities is a civil rights definition. To be considered for admission to public housing designated for people with disabilities or to receive a disability-related income deduction a person must meet the program definition of "person with disabilities" found in this section.
42. Kinship care - an arrangement in which a relative or non-relative becomes the primary caregiver for a child or children but is not the biological parent of the child or children. The primary caregiver need not have legal custody of such child or children to be a kinship caregiver under this definition. (Definition provided by the Kinship Care Project, National Association for Public Interest Law.) The primary caregiver must be able to document Kinship care. This is usually accomplished through school or medical records.
43. Live-in aide - a person who resides with an elderly person(s), near elderly person(s) or person(s) with disabilities and who:
- a. Is determined by DHA to be essential to the care and well-being of the person(s);
 - b. Is not obligated to support the family member; and
 - c. Would not be living in the apartment except to provide the necessary supportive services. **24 CFR 5.403**
44. ocal preferences: - a PHA may adopt a system of local preferences for selection of families admitted to the public housing program. There are four local preferences in effect, which are described in the section "Eligibility and Intake". Lower-income household - a family whose annual income does not exceed 80 percent of the median income for the area as determined by HUD with adjusted for smaller family size. **42 USC 1437a(b)**
45. Medical expense allowance - for purposes of calculating adjusted income for elderly or disabled families only, medical expenses mean the medical expense not compensated for or covered by insurance in excess of 3% of annual income. **24 CFR § 5.603**

46. Minor - A minor is a person less than 18 years of age. An unborn child will not be considered as a minor. (See definition of dependent.) Some minors are permitted to execute contracts, provided a court declares them “emancipated”.
47. Mixed family - a family with both citizen or eligible immigrant members and members that are neither citizens nor eligible immigrants. Such a family will be charged a pro-rated rent based upon the percentage of family members who are ineligible immigrants. **24 CFR § 5.504**
48. Mixed population development - means a public housing development for elderly and disabled families. The DHA is not required to designate this type of development.
49. Multifamily housing development - for purposes of Section 504, means a project containing five or more dwelling units. **24 CFR § 8.3**
50. National – a person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession, or birth in a foreign country to a parent who is a U.S. citizen. **24 CFR § 5.504**
51. Near-elderly family - means a family whose head, spouse, or sole member is a near-elderly person who may be a person with a disability. The term includes two or more near-elderly persons living together, and one or more such persons living with one or more persons who are determined to be essential to the care or well-being of the near-elderly person or persons. A near-elderly family may include other family members who are not near-elderly. **24 CFR § 5.403**
52. Near-elderly person - means a person who is at least 50 years of age but less than age 62, who may be a person with a disability **42 USC 1437a(b)(3)**
53. Net family assets –
- a. The net cash value, after deducting reasonable costs, that would be incurred in disposing of: **24 CFR § 5.603**
 - 1) Real property (land, houses, mobile homes);
 - 2) Savings (CDs, IRA, 401(k) or KEOGH accounts, checking and savings accounts, precious metals);
 - 3) Cash value of whole life insurance policies;
 - 4) Stocks and bonds (mutual funds, corporate bonds, savings bonds); or
 - 5) Other forms of capital investments.
 - b. Net cash value is determined by subtracting the reasonable costs likely to be incurred in selling or disposing of an asset from the market value of the asset. Examples of such costs are: brokerage or legal fees, settlement costs for real property, or penalties for withdrawing saving funds before maturity.
 - c. Net family assets also include the amount in excess of any consideration received for assets disposed of by an applicant or resident for less than fair market value during the

two years preceding the date of the initial certification or re-examination. This does not apply to assets transferred as the result of a foreclosure or bankruptcy sale.

- d. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be less than fair market value if the applicant or resident receives important considerations not measurable in dollar terms.

54. Other person under the resident's control - for the purposes of resident selection and lease enforcement means that the person, although not staying as a guest in the unit is, or was at the time of the activity in question, on the premises because of an invitation from the resident or other member of the household who has express or implied authority to so consent on behalf of the resident. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes (e.g. pizza delivery) is not "under the resident's control". **24CFR § 5**

55. Person with disabilities³⁴ **42 USC 1437a(b)(3)** means a person³⁵ who:

- a. Has a disability as defined in Section 223 of the Social Security Act **42 USC 423**; or,
- b. Has a physical or mental impairment that:
 - 1) Is expected to be of long continued and indefinite duration;
 - 2) Substantially impedes his/her ability to live independently; and,
 - 3) Is of such nature that such disability could be improved by more suitable housing conditions; or,
 - 4) Has a developmental disability as defined in Section 102 (5) (b) of the Developmental Disabilities Assistance and Bill of Rights Act **42 USC 6001 (5)**.
- c. This is the definition that is used for eligibility and granting deductions for rent.

56. Portion of development - includes, one or more buildings in a multi-building project; one or more floors of a development or developments; a certain number of dwelling units in a development or developments. **24 CFR § 945.105**

57. Refusal of housing - an applicant's choice not to accept a DHA offer of housing without good cause.

58. Rejection for housing – DHA's determination not to accept an applicant either because of ineligibility or failing applicant screening.

59. Qualified individual with disabilities Section 504 - means an individual with disabilities who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that DHA can demonstrate would result in a fundamental alteration in its nature.

- a. Essential eligibility requirements include: stated eligibility requirements such as income, as well as other explicit or implicit requirements inherent in the nature of the program or activity, such as requirements that an occupant of multifamily housing be capable of

³⁴ Note that this is the program definition for public housing. The 504 definition does not supersede this definition for eligibility or admission. **24 CFR 8.4 (c) (2)**

³⁵ A person with disabilities may be a child.

meeting the recipient's selection criteria and be capable of complying with all obligations of occupancy with or without supportive services provided by persons other than DHA.

- b. For example, a chronically mentally ill person whose particular condition poses a significant risk of substantial interference with the safety or enjoyment of others or with his or her own health or safety in the absence of necessary supportive services may be "qualified" for occupancy in a project where such supportive services are provided by DHA as a part of the assisted program. The person may not be "qualified" for a development lacking such services. **24 CFR § 8.3**

- 60. Service provider - a person or organization qualified and experienced in the provision of supportive services, that is in compliance with applicable licensing requirements imposed by state or local law for the type of service to be provided. The service provider may be either a for-profit or a non-profit entity.
- 61. Sexual assault - is any type of sexual contact or behavior that occurs without the explicit consent of the recipient, including when the individual lacks capacity to consent.
- 62. Single person - a person who is not an elderly person, a person with disabilities, a displaced person, or the remaining member of a resident family.
- 63. Spouse - spouse means the husband or wife of the head of the household.
- 64. Stalking – for purposes of interpreting the Violence Against Women Act (VAWA), 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
 - a. That person,
 - b. A member of the immediate family of that person; or
 - c. The spouse or intimate partner of that person.
- 65. Tenant rent - the amount payable monthly by the family as rent to DHA. If all utilities (except telephone) and other essential housing services are supplied by DHA, tenant rent equals total tenant payment. If some or all utilities (except telephone) and other essential housing services are not supplied by DHA the cost thereof is not included in the amount paid as rent, and tenant rent equals total tenant payment less the utility allowance. **24 CFR § 5.6 5.6.**
- 66. Total tenant payment (TTP) - calculated using the following formula:
 - a. The greater of 30% of the monthly adjusted income (as defined in these policies), or
 - b. 10% of the monthly annual income (as defined in these policies), but
 - c. Never less than the minimum rent.
 - d. If the resident pays utilities directly to the utility supplier, the amount of the utility allowance is deducted from the TTP. **24 CFR §5.6** See definition for tenant rent.

67. Uniform Federal Accessibility Standards (UFAS) - standards for the design, construction, and alteration of publicly owned residential structures to insure that physically disabled persons will have ready access to and use of such structures. The standards are set forth in Appendix A to 24 CFR Part 40. See cross reference to UFAS in 504 regulations, **24 CFR § 8.32 (a)**
68. Utilities - utilities means water, electricity, gas, other heating, refrigeration and cooking fuels, trash collection, and sewerage services. Telephone service is not included as a utility. **24 CFR § 965.473**
69. Utility allowance - at properties with tenant-paid utilities, this is a dollar amount established in accordance with HUD regulations (24 CFR § 965) for utilities paid directly to the utility supplier by residents. It is adequate to include reasonable consumption for major equipment such as heat, water heating and appliances, but does not include air conditioning in family developments. The amount of the utility allowance is subtracted from each resident's total tenant payment to determine tenant rent.
70. Utility reimbursement – at properties with tenant-paid utilities, amounts paid to families or utility providers when the families' total tenant payment is less than the utility allowance for tenant-paid utilities. Families paying flat rent do not receive utility allowances, and consequently, will never qualify for utility reimbursements.
71. Very low-income (VLI) family - a very low-income (VLI) family has an annual income less than 50 percent of the median annual income for the area, adjusted for family size, as determined by HUD.
72. Visitor – a non-resident who has registered with the manager and has permission to stay overnight in a DHA unit.
73. Welfare assistance - welfare or other payments to families or individuals based on need, that are made under programs, separately or jointly, by federal, state, or local governments.
74. Work activities - as used in the HUD definitions at **24 CFR § 5.603** the term work activities means:
- a. Unsubsidized employment;
 - b. Subsidized private sector employment;
 - c. Subsidized public sector employment;
 - d. Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
 - e. On-the-job training;
 - f. Job search and job readiness programs;
 - g. Community service programs;
 - h. Vocational educational training (< 12 months)
 - i. Job skills training directly related to employment;

- j. Education directly related to employment, in the case of a recipient who has not received a high school diploma or certificate of high school equivalency;
- k. Satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence; or
- l. The provision of child care services to an individual who is participating in a community service program.

XIV. Public Housing Community Service Policy

3. Background

1. The community service requirement is only applicable to residents of public housing properties or residents living in ACC-subsidized units at mixed finance properties. No one living in a multifamily property or a project-based voucher property, or using a tenant-based voucher in a market rate unit at a mixed finance property, is subject to the community service requirement.
2. DHA is working to enable its residents to become fully economically independent. In support of this goal and HUD requirements, DHA requires that all non-exempt members of resident families meet monthly targets for neighborhood service or economic self-sufficiency, as monitored monthly.
3. The community service requirement is 8 hours per month for each non-exempt adult (not for each family with a non-exempt adult).
4. Compliance with community service activities is monitored by monthly contact between the non-exempt resident and the resident service coordinator. DHA will accept tenant self-certifications of compliance with the community service requirement.

4. Definitions

1. Community service - volunteer work that benefits the property or the local neighborhood includes, but is not limited to:
 - a. Work at a local institution, including but not limited to: school, community center, hospital, hospice, recreation center, senior center, adult day care program, homeless shelter, meals or feeding program, library or bookmobile, before- or after-school education program, or child care center, etc.;
 - b. Work with a non-profit organization that serves DHA residents or their children, including but not limited to: Boy Scouts, Girl Scouts, Boys or Girls Club, 4-H Club, PAL, Garden Center, neighborhood clean-up programs, beautification programs, etc.;
 - c. Work with a community arts program involving performing arts, fine arts, visual arts or crafts including but not limited to community theater, dance, music (orchestra, voice, choir, band, small ensemble, etc.) , etc.;
 - d. Work with any program funded under the Older Americans Act, including but not limited to: Green Thumb, Service Corps of Retired Executives, Meals on Wheels, etc.;

- e. Work with service programs sponsored by churches so long as they do not involve religious education or the practice of religion (e.g. a meals program for the homeless sponsored by a church and provided in the parish hall would be acceptable, teaching Sunday School would not);
 - f. Work with other youth, disability service or advocacy, or senior organizations;
 - g. Work at the property to help improve physical conditions (for example as a grounds or building captain, or on a beautification program for the building or grounds);
 - h. Work at the property to help with children's programs;
 - i. Work at the property to help with senior programs;
 - j. Help neighborhood groups with special projects;
 - k. Work through the Resident Association to help other residents with problems, serving as an officer in an RA, serving on the RA or Resident Advisory Board;
 - l. Care for the children of other residents so they may volunteer.
 - m. Political activity is excluded.
 - n. Work activity must not take the place of work performed by paid employees.
2. Self-sufficiency hours count toward the 8-hour-per-month requirement only hours when a non-exempt adult is actually attending class or engaged in job training. It will not include time in transit. Activities include, but are not limited to:
- a. Job readiness programs;
 - b. Job training programs;
 - c. Skills training programs;
 - d. Higher education (junior college or college);
 - e. Vocational education;
 - f. GED classes;
 - g. Verifiable job search activities;
 - h. Apprenticeships;
 - i. Substance abuse or mental health counseling;
 - j. English proficiency or literacy (reading) classes;
 - k. Parenting classes;
 - l. Budgeting and credit counseling;
 - m. Any kind of class that helps a person toward economic independence; or
 - n. Carrying out any activity required by the Department of Public Assistance as part of welfare reform.
3. Exempt adult - an adult member of the family who is not required to perform community

service because he/she is:

- a. A person who is 62 years or older;
- b. A person who is blind or disabled, as defined under 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. Section 416(i)(1); Section 1382c), and who certifies that, because of this disability, she or he is unable to comply with the service provisions of this subpart;
- c. A primary caretaker of a person who is blind or disabled;
- d. A person engaged in work activities. In order for an individual to be qualified under this definition they must be “engaged in work activities”, including:
 - 1) Working at least 30 hours per week in an unsubsidized job;
 - 2) Subsidized private-sector employment;
 - 3) Subsidized public-sector employment;
 - 4) On-the-job-training;
 - 5) Job-search;
 - 6) Community service programs;
 - 7) Vocational educational training (not to exceed 12 months with respect to any individual);
 - 8) Job-skills training directly related to employment; or
 - 9) Education directly related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency.
- b. Enrolled in satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalency, in the case of a recipient who has not completed secondary school or received such a certificate;
- c. Is a member of a family receiving and compliant with requirements of the Temporary Assistance for Needy Families (TANF); **45 CFR Part 260**
- d. A member of a family receiving and compliant with requirements of the Supplemental Nutrition Assistance Program (SNAP); or **7 CFR Parts 271, 272 and 273**
- e. A member of a family receiving assistance, benefits, or services under any other welfare program of the state in which the PHA is located, including a state-administered Welfare-to-Work Program, who has not been found by the state or other administering entity to be in non-compliance with such a program.

5. Requirements of the Program

- 1. Each non-exempt adult in a public housing family must contribute and document some combination of 8 hours per month of community service or self-sufficiency activity.
- 2. The 8 hours per month may be either volunteer work or self-sufficiency program activity or a combination of the two.
- 3. At least 8 hours of activity must be performed each month. An individual may not skip a month and then double up the following month, unless special circumstances warrant special consideration. DHA will make the determination of whether to allow or disallow a deviation from the schedule.

4. Activities must be performed within the neighborhood and not outside the jurisdictional area of DHA. The exception to this rule would be adults who are enrolled in full-time higher education or vocational training. Their hours of education would count toward the requirement.
5. Family obligations - at lease execution or re-examination after the effective date of this policy, all adult members (18 or older) of a public housing resident family must:
 - a. Provide documentation that they are exempt from community service requirement if they qualify for an exemption, and
 - b. Sign a certification that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in termination of their lease.
 - c. Once each month non-exempt family members must present a completed documentation form (provided by DHA) of activities performed over the previous month to the housing manager.
 - d. At each annual re-examination, non-exempt family members must present a completed documentation form (provided by DHA) of activities performed over the previous twelve months. Both forms will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed each month by month.
6. Change in exempt status:
 - a. If, during the 12-month period, a non-exempt person becomes exempt, it is his/her responsibility to report this to DHA and provide documentation of such.
 - b. If, during the 12-month period, an exempt person becomes non-exempt, it is his/her responsibility to report this to DHA and the housing manager.
 - c. The housing manager will provide the person with the recording/certification documentation form and a list of agencies in the neighborhood that provide volunteer and/or training opportunities.

6. DHA Obligations

1. To the greatest extent possible and practicable, DHA and its housing managers will:
 - a. Provide names and contacts at agencies that can provide opportunities for residents, including those with disabilities, to fulfill their community service/self-sufficiency obligations;
 - b. Include in the community service requirement a disabled person who is otherwise able to be gainfully employed, since such an individual is not exempt from the community service requirement; and
 - c. Provide referrals for volunteer work or self-sufficiency programs.
2. The housing manager will provide the family with exemption verification forms and recording/certification documentation forms and a copy of this policy at initial application and at lease execution.

3. DHA will make the final determination as to whether or not a family member is exempt from the community service/self-sufficiency requirement.
4. Residents may use DHA's *Grievance Procedure* if they disagree with DHA's determination.

7. Non-compliance of a Non-exempt Family Member

1. If a non-exempt adult fails to report to the manager or fails to complete the required 8 hours of neighborhood service or self-sufficiency activity, the non-exempt adult shall be considered to be in non-compliance.
2. When a housing manager receives a report of a non-exempt adult's failure to either report or complete the required activity, the housing manager shall send a Notice of Lease Violation to the head of household.
3. The non-exempt adult may be granted additional time to make up any lost hours, properly reported to the manager.
4. If the non-exempt adult who fails to make up the required hours is someone other than the head of household, the remaining family members may retain their tenancy if the noncompliant adult leaves the household;
5. The family may use DHA's *Grievance Procedure* to contest the lease termination.