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## **Chapter 1**

### **NONDISCRIMINATION**

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

Federal laws require Pennington County Housing and Redevelopment Commission (PCHRC) to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The PCHRC will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

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

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

## **1-B. NONDISCRIMINATION**

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

The PCHRC shall not discriminate because of race, color, sex, religion, familial status, age, disability, or national origin (called “protected classes”).

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

The PCHRC will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988].

The PCHRC will not use any of these factors to:

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

The property shall not automatically deny admission to a particular group or category of otherwise eligible applicants. Each applicant in a particular group or category will be treated on an individual basis in the normal processing routine.



## **1-C. POLICIES RELATED TO PERSONS WITH DISABILITIES**

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

### PCHRC Policy

It is the policy of this property to assure that qualified individuals with handicaps or disabilities are not discriminated against on the basis of their handicap or disability. The property also assures that these individuals will have equal opportunity to receive and enjoy the benefits of living at the property. A form containing the following language will be provided to all applicants.

“If you, a member of your household, or someone associated with you has a disability, and there is a need for a reasonable accommodation/modification in order for that person to have equal opportunity to use and enjoy a dwelling unit, or the public and common use areas, please complete this form and return to Pennington County Housing and Redevelopment Commission's (PCHRC) management office.”

## **1-D. REASONABLE ACCOMODATION**

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

In reaching a reasonable accommodation with, or performing structural modifications for otherwise qualified individuals with disabilities, the property is not required to:

- Make structural alterations that require the removal or altering of a load-bearing structural member;
- Provide support services that are not already part of its housing programs;
- Take any action that would result in a fundamental alteration in the nature of the program or service;
- Take any action that would result in an undue financial and administrative burden on the property, including structural impracticality as defined in the Uniform Federal Accessibility Standards (UFAS).

### **Information Regarding Handicaps**

The property ensures that any questions related to handicapped information on the application for housing have to do with program eligibility and allowable medical or handicapped deductions for housing applicants who wish to take advantage of those deductions. It is not required that any information regarding a possible handicap be revealed other than for program eligibility requirements.

### **Neutral Policies**

The property will make reasonable adjustments to rules, policies, practices, and procedures in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy the unit and the common areas of a dwelling, or to participate in or have access to other activities conducted or sponsored by the owner.

### **Assistance Animals**

The property will allow assistive animals which are defined as animals that work, provide assistance, perform tasks for the benefit of a person with a disability, or provide emotional support to alleviate identified symptoms or effects of a person's disability. These animals, often referred to as service animals, support animals, or therapy animals, perform many disability-related functions, including but not limited to guiding individuals who are blind, alerting individuals who are deaf, providing minimal protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. No pet deposit is required for assistive animals.

### **Reasonable Modifications**

The property will permit residents with handicaps or disabilities to make reasonable modifications to their individual units or common areas. The tenant shall not be required to incur any cost related to a reasonable modification. The cost necessary to carry out approved requests, including requests for physical modifications, will be borne by the PCHRC if there is no one else willing to pay for the modifications. If another party pays for the modification, the PCHRC will seek to have the same entity pay for any restoration costs. The property will not require this restoration if the modification benefits the property or is needed by another resident.

### **Equal Access**

The property will provide assistance in a confidential manner and setting to ensure equal access to a resident's documents. An individual with disabilities is responsible for providing her/his own transportation to and from the location where all documents are kept.

## **1-E. REQUEST FOR AN ACCOMMODATION**

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

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

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

### PCHRC Policy

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

## 1-F. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities can be found at 24 CFR Parts 8.3 and 100.201. The definition of a *person with a disability* for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of *disability*, which is used for waiting list preferences and income allowances.

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

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

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

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

## **1-G. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]**

The PCHRC must approve a request for an accommodation if the following three conditions are met:

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

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

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

### PCHRC Policy

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

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

If the PCHRC denies a request for an accommodation because it is not reasonable, the PCHRC will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the program and without imposing an undue financial and administrative burden.

If the PCHRC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PCHRC will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the PCHRC's decision.

## **1-H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6]**

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

### PCHRC Policy

The property will seek to effectively communicate with applicants, residents, and members of the public who are individuals with handicaps or disabilities. The use of auxiliary aides will be implemented when necessary. The property asks for 7 days notice in order to make any service, meeting, interview, appointment, or any business accessible. Requests for auxiliary aids may include visual alarms, tactile signs, visual doorbells, readers, interpreters, large print applications, leases, and other information/communications, recordings of such information, and a community room television that provides closed-captioning service.

### Mitigating Circumstances

Section 504 and Fair Housing regulations state that consideration for mitigating circumstances shall be given to all persons applying for occupancy. If an applicant feels there is a mitigating circumstance or reasonable accommodation to be considered for determining occupancy, they should contact the property immediately to schedule a meeting.

## Chapter 2

### THE APPLICATION PROCESS

#### 2-A. USE OF ELECTRONIC SIGNATURES [Notice H 2020-04]

HUD allows but does not require PCHRC to use electronic signatures (e-signatures) in compliance with Notice H 2020-04 and federal, state, and local laws. Owners adopting policies on the use of electronic signatures must provide applicants and tenants the option use “wet” signatures (i.e., original signatures) and paper documents upon request.

##### PCHRC Policy

The PCHRC will accept and use electronic signatures (e-signatures) during the application process, the leasing process, and the annual and interim recertification process, as described in this section and in compliance with Notice H 2020-04 and any applicable federal, state, and local laws.

In lieu of electronic signatures, tenants have the option to sign any required documents or forms on paper with a “wet” signature if they so request.

References to original signatures throughout this policy may be interpreted and implemented through electronic means.

The owner will ensure appropriate data security for both the record being signed and the signature.

#### 2-B. TRANSMISSION OF FORMS, NOTICES, AND DOCUMENTS [Notice H 2020-04]

HUD allows but does not require PCHRC to communicate electronically with applicants and tenants and/or provide documents and notices electronically when state and local law permits and in accordance with Notice H 2020-04.

If the PCHRC chooses to use electronic communication procedures, applicants and tenants may also choose to communicate electronically with the PCHRC provided their choice is made affirmatively—not assumed with an opt-out procedure. The PCHRC may designate specific methods as acceptable for electronic transmissions from applicants and tenants.

When state and local law permits, the PCHRC may also provide documents and notices electronically or make such documents available in electronic format. However, when HUD regulations or notices or state or local law require notices to tenants be sent by first class mail, delivered directly to tenants or their units, or be posted in public spaces, electronic communication does not satisfy this requirement.

Applicants and tenants must have the opportunity to provide their information and documents in paper copy and to receive documents in paper form, including both before they have provided any information or documents electronically or after they have done so and wish to discontinue doing so. If PCHRC chooses to provide documents electronically, the PCHRC should inform applicants or tenants of their option to receive such documents in paper form.

### PCHRC Policy

In compliance with federal, state, and local laws and HUD regulations, the PCHRC will securely, electronically transmit HUD-approved and required documents when feasible throughout the application, move-in, and annual and interim recertification process. Tenant and applicants may request paper copies of such documents and may provide information in paper form at any time.

The PCHRC will inform applicants of their ability to communicate electronically with the PCHRC and/or receive paper copies of documents via the application.

The following methods are acceptable for electronic submission of documents:

### **Acknowledgement of Receipt**

If required notices, forms, and brochures are distributed electronically, HUD recommends that PCHRC request an electronic acknowledgement of receipt. Where HUD does not specifically require applicant or tenant acknowledgement of receipt, the PCHRC should nonetheless maintain records showing that they provided applicants or tenants with the electronic file or the electronic address used to access the document.

### PCHRC Policy

Where HUD requires an acknowledgement of receipt for certain documents or forms and the PCHRC has adopted a policy for electronic documents, the PCHRC will request an electronic acknowledgement of receipt from the applicant or tenant. For documents provided electronically that do not require an acknowledgement of receipt, the PCHRC will maintain records showing they provided information electronically.

### **Effective Communication to Persons with Disabilities [24 CFR 8.6; 28 CFR 35.160; 28 CFR 36.303]**

The owner must ensure effective communication with persons with disabilities by ensuring that all notices and communications provided electronically are consistent with applicable fair housing laws and regulations and that electronic communications do not impose any barriers in accessing information, programs, and activities by persons with disabilities.

The owner must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible websites and other electronic communications). In the event that a person with a disability is unable to use an electronic system or file that meets federal accessibility standards, the PCHRC must provide reasonable accommodations to afford users an equal opportunity to participate (e.g., in completing and signing documents or submitting documents in paper copy).



## **Effective Communication to Limited English Proficient (LEP) Individuals [Executive Order 13166]**

The owner is responsible for ensuring effective communication of electronic media includes reasonable steps taken to ensure meaningful access for persons with Limited English Proficiency (LEP) across technological platforms. Such formats may include, but are not limited to, multilingual websites and other electronic media.

## **2-C. MARKETING**

The PCHRC will market available units in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan (Form HUD-935.2A) in order to reach those who are least likely to apply and to attract a broad cross-section of the eligible population without regard to race, color, religion, sex, disability, familial status, gender identity, or national origin.

### **Fair Housing Requirements**

The property enforces a marketing effort that attracts a broad cross-section of the eligible population without regard to race, color, religion, sex, disability, familial status, or national origin.

### **Filling Available Units**

Whenever additional applicants are needed to fill available units, advertising will be carried out in accordance with the HUD-approved AFHMP, and as indicated below.

### **Race and Ethnic Data Reporting**

The property will offer all members of an applicant/tenant family the option of completing Form HUD-27061-H, Race and Ethnic Data Reporting Form. This form is used for gathering race and ethnic data in assisted housing programs. The form will be offered for completion at initial application or at lease signing. In-place tenants who have not completed the form will be offered the opportunity to complete the form. There is no penalty for persons who do not complete the form. The property will place a note in the file of any family member who chooses not to complete the form.

### **Affirmative Fair Housing Marketing Plan (AFHMP)**

The property complies with the requirements of the HUD-approved AFHMP established for the property, which is designed to promote equal housing choice for all prospective residents regardless of race, color, religion, sex, disability, familial status, or national origin. The purpose of the plan is to ensure that eligible families of similar income levels will have a similar range of housing opportunities. The plan outlines marketing strategies the owner will use. Special efforts will be made to attract persons who are least likely to apply due to such factors as the racial or ethnic composition of the neighborhood. Marketing will also seek to reach potential applicants outside the immediate neighborhood if marketing only within the neighborhood would create a disparate impact against certain classes, such as the case of an entire neighborhood that includes no minorities.

### **Monitoring and Documenting Marketing Activities**

The property will monitor marketing efforts and document the results in writing. The documentation will be made available, upon request, for all marketing activities, to show consistency with affirmative fair housing marketing requirements and the approved plan for the property. This documentation will include copies of media and marketing materials, records of marketing activities conducted, and documentation of any special marketing activities conducted in accordance with the property's approved AFHMP.

### **Five-year Review of Plan**

The property will review the AFHMP every five years and update it as needed to ensure compliance with HUD regulations. If the demographics of the area have changed, the property will determine whether advertising efforts should be targeted to different groups. The AFHMP will be revised whenever a substantial change takes place, or the local Consolidated Plan is updated, and be submitted to HUD for approval.

### **Advertising**

#### **Population to be Targeted**

When available units cannot be filled from applicants on a waiting list, the property will target advertising to groups other than the typical population of the neighborhood, and will reach out to applicants who are least likely to apply because they are not the predominant racial or ethnic group in the neighborhood.

#### **Form of Advertisement**

All advertising for this property includes either the HUD-approved Equal Housing Opportunity logo, the Equal Housing Opportunity slogan, or an equal housing statement. All visual advertising will depict members of all eligible protected classes including individuals from both majority and minority groups.

#### **Source of Advertising**

The property will use the following public forums for its advertising: Hill City Prevailor and Rapid City Journal.

#### **Fair Housing Poster**

The property has posted the required Equal Housing Opportunity poster in a window of the Leasing Office which can be seen from the street, so that it is readily apparent to all persons seeking housing.

## **2-D. APPLYING FOR ASSISTANCE [24 CFR 880.603(a); HUD Handbook 4350.3, REV-1, CHG-4, Section 4-14]**

Any family that wishes to reside at the property must apply for admission to the program. Applications must be signed by both the PCHRC and the applicant. HUD permits the PCHRC to determine the format and content of the application, as well how such applications will be made available to interested families and how applications will be accepted by the PCHRC. However, the PCHRC must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the application.

### PCHRC Policy

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

Families may access the pre-application on PCHRC website.

Completed applications must be returned to the PCHRC by mail, electronically, or submitted in person during normal business hours. Applications must be filled out completely in order to be accepted by the PCHRC for processing. If an application is incomplete, the PCHRC will notify the family of the additional information required.

Applications may be made in person during specified dates and business hours posted at the PCHRC offices at the following location(s):

**Pennington County Housing and Redevelopment Commission  
1805 West Fulton Street, Suite 101  
Rapid City, SD 57702**

Completed applications will be dated, time-stamped upon receipt, and referred to the PCHRC's office where resident selection and assignment is processed.

Individuals who are unable to complete an application in person may contact the PCHRC to make special arrangements to complete their application. If the applicant is visually impaired, or has limited English proficiency (LEP), all notices will be made available in a format understandable by the applicant.

All adult applicants will be given the opportunity to complete Form HUD-92006, Supplement to Application for Federally Assisted Housing, at the time of application and annually at recertification.

## **2-E. ACCESSIBILITY OF THE APPLICATION PROCESS**

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

The PCHRC must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible, or the PCHRC must provide an alternate approach that provides equal access to the program.

## **2-F. PRIVACY POLICY**

### **Personal Information**

It is the policy of the property to guard the privacy of individuals conferred by the Federal Privacy Act of 1974, and to ensure the protection of such individuals' records maintained by the property. Unless required by Federal or state law, neither the property nor its agents shall disclose any personal information contained in its records to any person or agency unless the individual about whom information is requested shall give written consent to such disclosure.

### **Determining Eligibility for Assistance**

This privacy policy in no way limits the property's ability to collect such information as it may need to determine eligibility and income, compute rent, or determine an applicant's suitability for tenancy.

### **Information on Handicaps/Disabilities**

Consistent with the intent of Section 504 of the Rehabilitation Act of 1973, any information obtained on handicap or disability will be treated in a confidential manner.

### **Investigations into Fraud/Criminal Activities**

This privacy policy is not intended to preclude the cooperation of the property with local, state, or Federal investigations into fraud or criminal activity. With proper identification, the property is permitted to advise the investigating officer of the following:

- Whether or not an individual is a resident;
- How long an individual has been a resident; and
- Any other appropriate answers to questions related to the investigation.

The property will not make files, forms, or documents available to the investigating officer unless a court order for such action is provided.

## Chapter 3

### WAITING LIST PROCEDURES

#### 3-A. PLACEMENT ON THE WAITING LIST

The PCHRC must review each completed application received and make a preliminary assessment of the family's eligibility. Areas to be reviewed include requirements for income, household size/composition, student status, special status requirements such as age or disability status if needed, and criminal history. Applicants for whom the waiting list is open must be placed on the waiting list unless the PCHRC determines the family is ineligible.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the PCHRC will verify any preferences claimed, if applicable, and determine eligibility and suitability for admission to the program.

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

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

##### PCHRC Policy

Pennington County Housing and Redevelopment Commission does not deny placement on any waiting list at the time of applying. Eligibility is determined upon selection from the waiting list.

**3-B. PREFERENCES [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-6; 24 CFR 5.655(c); Notice H 2013-21]**

PCHRC must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PCHRC will use, if any. PCHRC are permitted, but not required to, establish local preferences as long as they are subordinate to any program-specific preferences. Preferences do not guarantee admission. PCHRC must inform all applicants about any available preferences and give all applicants the opportunity to show they qualify for available preferences. While HUD rules currently include four types of preferences, Section 8 properties may only implement owner-adopted preferences or state and local preferences. HUD approval is required for any state, local, or residency preferences. Owners may implement owner-adopted preferences outside of those cited in the regulations, such as a preference for homeless families [Notice H 2013-21]. If a homeless preference is adopted, it must be included in this TSP, which must then be submitted to HUD for approval.

PCHRC Policy

**Preferences**

The PCHRC will select families based on the following preferences points within each bedroom size category.

- Involuntarily Displaced from PCHRC Programs – 20 points: Preference will be given to applicants who are displaced from any PCHRC administered program through no fault of their own. This preference shall not apply to applicants whose participation in a PCHRC administered program was terminated by the PCHRC. This preference will be applied to all Public Housing Properties.
- Elderly or disabled – 10 points: Preference will be given to families whose head of household or co-head of household is elderly (62 years of age or older) or disabled. This preference shall apply to all Public Housing Properties.
- Veteran – 5 points: In accordance with South Dakota State Law, the PCHRC will give preference in the selection of applicants for participation in the Public Housing Program, to families of Servicemen and Veterans (including families of servicemen who died in service). Veteran shall be defined as any person who served on Active Duty in the armed forces of the United States and has been separated or discharged under honorable conditions or has been released to any reserve component of the armed forces. “Families” shall include only the spouse and minor children of the serviceman or veteran. This preference shall apply to all Public Housing properties.

### **3-C. INCOME TARGETING REQUIREMENT [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-25]**

HUD requires PCHRC with Section 8 units to ensure that during a fiscal year at least 40 percent of the dwelling units assisted under the contract that become available, together with initial certification of in-place families (with the exception of in-place residents at the time of a RAD conversion), be extremely low-income (ELI) families. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [FR notice 6/25/14]. To ensure this requirement is met, the PCHRC may skip non-ELI families on the waiting list in order to select an ELI family.

Current households in properties converting to PBRA under RAD are not subject to income targeting provisions at the time of conversion.

#### PCHRC Policy

The PCHRC does not operate any Section 8 units and therefore is not subject to income targeting provisions.

### **3-D. OPENING AND CLOSING THE WAITING LIST**

Should the wait for one or more bedroom size become excessive (exceeding 12 months), the PCHRC can, at their discretion, close the waiting list and no longer accept applications.

#### PCHRC Policy

In order to maintain a balanced application pool, the property may, at its discretion, restrict application taking, suspend application taking, and close waiting lists in whole or in part. Decisions about closing the waiting list will be based on the number of applications available, and the ability of the property to house an applicant within a reasonable period of time. Closing the waiting lists, restricting intake, or opening the waiting lists will be publicly announced in the Hill City Prevaler and Rapid City Journal.

#### **Policy for Closing the List**

The waiting list closure will also be published in the newspaper(s) listed above, and will state that additional applications will not be accepted until the waiting list is no longer excessive. During the period when the waiting list is closed, the property will not maintain a list of individuals who wish to be notified when the waiting list is reopened.

#### **Reopening the List**

If there is a need to reopen the waiting list, the property will advertise in the newspapers listed above, explaining the rules for applying, when and where to apply, and the order in which applications will be processed.

### **3-E. UPDATING THE WAITING LIST [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-18]**

Whenever a change is made in the waiting list, an action is taken, or an activity specific to an applicant occurs, a notation must be made on the waiting list.

#### PCHRC Policy

The Waiting List will be updated weekly. The property will update the waiting list by removing the names of those who are no longer interested in, or who are no longer qualified for, assisted housing. The applicant is responsible to update the application with any changes that may occur to remain active on the current waiting list.

#### **Removal of Applications from the Waiting List**

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

- The applicant requests that the name be removed.
- The applicant was clearly advised of the requirement to tell the property of his/her continued interest in housing by a particular time and failed to do so. Those applicants failing to respond within the required time frame will be removed from the list. They may reapply at any time, but will not assume their old position on the list.
- The property made a reasonable effort to contact the applicant to determine if there is continued interest in housing, but has been unsuccessful.
- The property has notified the applicant of its intention to remove their name because they no longer qualify for assisted housing.
- The property made a determination that the applicant is not eligible for the program.



### **3-F. SELECTION FROM THE WAITING LIST**

Waiting lists will be divided into sub-lists based upon unit size, unit type, and accessibility features needed. By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application, higher preference status, or preceding lottery number. Further, all selections from the waiting list will be made considering income targeting requirements.

#### PCHRC Policy

The property will select names from the waiting list in chronological order to fill vacancies, unless an extremely low-income applicant is needed to achieve targeting requirements, and the next applicant on the waiting list has income above the extremely low-income limit. In such a case, a notation will be made on the waiting list to indicate why this applicant was skipped for an extremely low-income applicant. Please note the paragraph on Income-Targeting on Page 9 of this Resident Selection Plan.

#### **Applicant's Refusal to Accept a Unit**

When appropriately sized units are offered to applicants, and an applicant turns down unit offer without good cause, the applicant will be removed from the waiting list.

### **3-G. APPLICANT INTERVIEW [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-24]**

When an appropriate unit will be available in the near future, the PCHRC must interview the applicant family to obtain current information about the family's circumstances. All information listed in Chapter 4 of the HUD Handbook 4350.3 must be discussed.

#### PCHRC Policy

As applicants approach the top of the waiting list they will be contacted to schedule an interview to complete full application and verify all information given on the application. The interview will be conducted in accordance with HUD's Occupancy Handbook, HUD Handbook 4350.3 REV-1. The property will confirm and update all information provided on the application, and will explain program requirements, verification procedures, and penalties for false information, which include eviction, loss of assistance, fines up to \$10,000, and imprisonment up to five years. The applicant will be asked to sign the release of information consent portion of the Authorization for Release of Information (Forms HUD 9887 and 9887-A) and any other necessary verification requests.

#### **Ineligible Applicants**

At the completion of the verification process, applicants will be ineligible to move into the property for any one of the following reasons:

- The applicant's gross annual income changes by the time they reach the top of the waiting list, and exceeds the income limit for the property;
- In a 202/8 property, the applicant's rent based on HUD's rent formula, exceeds the gross rent for the unit;
- Household members have failed to meet disclosure requirements for Social Security numbers;
- Household members have failed to declare citizenship/noncitizenship status;
- Household members have failed to sign the release of information forms;
- Landlord reference checks reveal that the applicant has a history of nonpayment of rent, eviction for nonpayment of rent, history of disruptive behavior, or history of damaging site property; and,
- Household size exceeds maximum occupancy standard

## Chapter 4

### PROJECT ELIGIBILITY

Program eligibility determines whether applicants are eligible for assistance, while project eligibility establishes whether applicants are eligible to reside in the specific project to which they have applied. Project eligibility may be affected by:

- Whether some or all of the units in the project are designated for specific family types
- Project-specific occupancy standards (See Section 4-C)
- Whether some or all of the units in the project are layered with other programs and therefore may have different requirements

#### **4-A. PROJECT-SPECIFIC REQUIREMENTS [HUD Handbook 4350.3, REV-1, CHG-4, Chapter 3, Section 2]**

The PCHRC is required to define if the property is designated for a special population, such as elderly or disabled.

##### PCHRC Policy

The PCHRC does not have designated elderly or designated disabled housing at this time.

#### **4-B. INCOME ELIGIBILITY [24 CFR 5.653; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-6, Figure 3-3]**

##### **Income Limits**

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

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

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

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

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

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

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

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, the household's annual income does not exceed applicable program income limits, a copy of which will be available upon request.

### **RAD Requirements [Notice H 2019-09]**

Pursuant to RAD statute, at conversion, current households are not subject to income eligibility provisions. In order to facilitate the right to return to the assisted property, this also applies to current public housing residents at the converting project that will reside in non-RAD PBRA units placed in a project that contains RAD PBRA units. RAD PBRA properties will use the low-income limit to determine eligibility for new admissions to the property.

### **4-C. OCCUPANCY STANDARDS [HUD Handbook 4350.3, REV-1, CHG-4, Section 3-23]**

In selecting a family to occupy a particular unit, the PCHRC may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 5.655(b)(4)]. HUD does not specify the number of persons who may live in units of various sizes. Although the PCHRC does determine the size of unit the family qualifies for under the occupancy standards, the PCHRC does not determine who shares a bedroom/sleeping room. Occupancy standards will be applied in a manner consistent with fair housing requirements. Applicants will be housed in a unit size appropriate for their household.

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Live-in aides and foster children and adults are considered members of the household, not the family. While the income and assets of these household members are excluded when determining initial eligibility, all members of the household, including foster children and adults and any live-in aides, are considered for purposes of unit size. HUD defines a foster adult as a member of the household who is 18 years or older and meets the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state. In general, a foster adult is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

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

In accordance with HUD Handbook 4350.3, REV-1, CHG 4, household members include, but are not limited to the following:

- All full-time family members
- All anticipated children, defined as the following:
  - Children expected to be born to a pregnant woman
  - Children in the process of being adopted by an adult family member
  - Children whose custody is being obtained
  - Foster children who will reside in the unit
  - Children who are temporarily in a foster home who will return to the family
  - Children in joint custody arrangements who are present in the household 50 percent or more of the time
- Children who are away at school and who live at home during recesses
- Live-in aides
- Foster adults living in the unit

PCHRC Policy

The PCHRC will reference the following standards in determining the appropriate unit bedroom size for a family:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0 BR	1	1
1 BR	1	2
2 BR	2	4
3 BR	3	6
4 BR	4	8
5 BR	5	10
6 BR	6	12

**Property Standards for Occupancy**

Being eligible for federal rental housing is not an entitlement. Every applicant must meet the resident selection criteria set in place at the property. These standards are used to demonstrate the applicant’s suitability as a resident. They are determined by verifying information on past behavior to document the applicant’s ability, either alone or with assistance, to comply with essential lease provisions and any other rules governing tenancy.

**Two Persons per Bedroom**

The property has adopted a bedroom size standard of two persons per bedroom. This standard serves to prevent the over-utilization or under-utilization of units that could result in an inefficient use of housing assistance. This standard also ensures that residents are treated fairly

and consistently in order to receive adequate housing space. The property will not make social judgments on a family's sleeping arrangement.

### **Families with Children**

The Fair Housing Act prohibits properties receiving Federal assistance from discriminating on the basis of familial status, defined by Congress as children under the age of 18, making it illegal to discriminate against families because of the presence of children. The property will neither exclude families with children, nor will they develop policies or procedures that have the purpose or effect of prohibiting children. The property will not exclude eligible elderly families because of the presence of children, or because of the anticipated presence of children.

### **Counting Family Members**

In order to determine the size of unit that would be appropriate for a particular family, the property will count all full-time members of the family including live-in aides and foster persons who will reside in the unit. In addition, the property will count all anticipated persons including the following:

- Children expected to be born to a pregnant woman;
- Children in the process of being adopted by an adult family member;
- Children whose custody is being obtained by an adult family member;
- Children who are temporarily in a foster home who will return to the family;
- Children in joint custody arrangements who are present in the household 50% or more of the time, but see below;
- Children who are away at school and who live at home during recesses, but see below;
- Children that are temporarily in a correctional facility/detention center who will return to the family.

### **Anticipated Children**

Anticipated children that are not currently living in the unit will be taken into consideration when determining unit size, and in some cases when determining income limits. The rules as laid out in Chapter 3 of HUD Handbook 4350.3 REV-1 are as follows:

- Family Addition Adoption: Counts for income limits and unit size.
- Family Addition Pregnancy: Counts for income limits and unit size.
- Family Addition Foster Child: Counts for unit size.

When these anticipated children become a reality and move into the unit, an interim recertification is required including the child as a family member if the addition is due to adoption or pregnancy, or as a household member if the addition is due to a foster child.

### **Joint Custody Agreements**

Children in joint custody agreements whose parents both live in assisted housing, may receive a dependent deduction in only one of the assisted units at any given time. The determination of which parent will receive the deduction will remain with the parents. All families with single parents will be asked on their move-in and annual/interim recertification checklists or

questionnaires if they are in a joint custody agreement, and if so, does the other parent live in assisted housing. If there is a joint custody agreement and both parents live in assisted housing, a declaration must be made by each parent at each certification which parent will receive the dependent deduction.

### **Children Who are Away at School**

Management will not include as a family member a child who is away at school and who has established residency at another address or location as evidenced by a lease agreement. The new address or location is considered the student's principle place of residence.

### **Remaining Family Members**

If the qualifying member of a household leaves the unit, a determination will be made as to whether the remaining member(s) of the household will be eligible to receive assistance. To qualify as a remaining member, individuals must be a party to the lease when the qualifying member leaves the unit, and must be of legal contract age under state law. 16 For this Section 202/8 (or 202 PAC) property, if the qualifying member leaves the unit due to death, the remaining family member that was a party to the lease and living in the unit at the time of the qualifying member's death, is eligible to remain in the unit. If the qualifying member leaves the unit for any reason other than death, and the remaining member is not eligible for the property, the individual may remain in the unit, but must pay contract rent.

### **Property Standards for Unit Assignment**

#### **Assigning a Smaller Unit Than Required**

Management will consider assigning a family to a smaller unit size than the standards listed above if the family requests the smaller unit, is eligible for the smaller unit based on the number of family members, and occupancy of the smaller unit will not cause serious overcrowding, or will not conflict with the local codes.

#### **Change in Need for Accessible Features**

If a family is in an accessible unit but no longer needs the accessible features, management may request that the family move to another unit in the property.

### **Property Standards for Behavior**

The applicant family will be judged on past habits and practices related to tenancy and not on any attribute or behavior which may be imputed to a particular group or category of persons of which an applicant may be a member.

### **RAD Requirements [Notice H 2019-09]**

If at the time of conversion, an eligible family assisted under the HAP contract is occupying a unit that is larger than appropriate because of the family's composition, the family will be permitted to continue to occupy the unit until an appropriate-sized unit becomes available in the project. When an appropriate-sized unit becomes available, the family living in the under-occupied unit must move to the appropriate-sized unit within 30 days.

## Chapter 5

### PROGRAM ELIGIBILITY

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

In addition to meeting the requirements listed in this section, in order to be eligible:

The unit for which the applicant household is applying will be the household's sole place of residence.

At the time of admission, the applicant may not be receiving rental assistance in another unit unless that assistance will be terminated at the time of admission.

#### **RAD Requirements [Notice H 2019-09]**

Pursuant to RAD statute, at conversion, current households are not subject to rescreening. Consequently, current households will be grandfathered for conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

#### **5-A. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [HUD Handbook 4350.3, REV-1, CHG-4, Section 3-12; 24 CFR 5, Subpart E]**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

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

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen, or an ineligible noncitizen, and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR 5.508(g)(5)].



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

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

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

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

#### PCHRC Policy

According to Section 214 of the Housing and Community Development Act of 1980 (commonly known as the Noncitizen Rule), only U.S. citizens and eligible noncitizens may benefit from federal rental assistance. All applicants will be given notice of the requirement to submit evidence of citizenship or eligible immigration status at the time of application. For citizens, the evidence consists of a signed declaration of US citizenship or US nationality. The agent will obtain verification of the declaration by requiring presentation of a US passport, birth certificate, Employment Authorization card, Temporary Resident card, or other appropriate documentation, as provided by Section 214. For noncitizens, adequate evidence consists of a signed declaration of eligible immigration status, and one of the Section 214 documents listed in Figure 3-4 of HH 4350.3 REV-1.

### **Declaration Form**

All family members, regardless of age, must declare their citizenship or immigration status via a Declaration Form. A separate form must be signed by each member of the family. For family members under the age of 18, the form must be signed by an adult member of the household. This form is a statement made by the applicant clarifying whether s/he is 1) a citizen or national of the United States, is 2) a noncitizen with eligible immigration status as evidenced by an immigration document, or 3) is a noncitizen and is not contending eligible immigration status and is thus not eligible to receive federal assistance.

- If an applicant under the age of 62 is an eligible noncitizen as an immigrant to the US, s/he must additionally sign a Verification Consent Form and submit documentation of immigration status. Otherwise, for noncitizens who are in this country on a visa, and are not immigrants, there is an appropriate place on the form for them to sign stating that they do not claim to have eligible immigration status and are not therefore eligible for assistance.

- Noncitizen immigrants who are age 62 and older are not required to be further verified regarding their immigration status other than signing their declaration of eligible immigration status, and providing a proof of age document.
- Noncitizens who are not contending eligible immigration status are eligible to live in assisted housing as long as there is at least one eligible member in the family intending to live in the unit. Only the eligible family members will receive assistance, which will be calculated by using a proration method of eligible members divided by total family members.

### ***Eligible Immigrants***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PCHRC must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PCHRC will follow all USCIS protocols for verification of eligible immigration status.

### ***Ineligible Noncitizens***

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

## **5-B. SOCIAL SECURITY NUMBERS [24 CFR 5.216; Notice 2023-10]**

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PCHRC must accept the following documentation as acceptable evidence of the Social Security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PCHRC must attempt to gather third-party verification of SSNs prior to admission as listed above, PCHRC also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PCHRC has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PCHRC must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PCHRC must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

### PCHRC Policy

The PCHRC will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PCHRC may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or illegible, or if the document appears to be forged.

For applicant families, if all household members have not disclosed and/or provided verification of SSNs for all household members at the time a unit is available and offered to the household, the next eligible applicant will be offered the available unit. The applicant family that has not disclosed SSNs for all household members must disclose and provide verification of SSNs for all household members within 90 days of the date of they are first offered a unit, during which time, the family may remain on the waiting list. If after 90 days of the first unit offer the applicant has not provided the SSN and verification documentation, the applicant will be determined ineligible and removed from the waiting list.

If an applicant family includes a child under six years of age who joined the household within the six months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PCHRC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

When a resident requests to add a new household member who is at least six years of age, or who is under the age of six and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PCHRC may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of six and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PCHRC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PCHRC is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Social security numbers must be verified only once during continuously assisted occupancy.

Once the individual's verification status is classified as "verified," the PCHRC may remove and destroy copies of documentation accepted as evidence of Social Security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

#### PCHRC Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the PCHRC will not remove copies of documentation accepted as evidence of Social Security numbers.

### **5-C. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612; FR Notice 4/10/06; FR Notice 9/21/16; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-13]**

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving Section 8 assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive Section 8 assistance. If, however, a student in these circumstances is determined independent from their parents based on the Department of Education's definition of an *independent student*, which has been expanded to include "vulnerable youth" as defined below, the income of the student's parents will not be considered in determining the student's eligibility.

The Department of Education's definition of an *independent student* includes an individual who meets one or more of the following criteria:

- The individual is 24 years of age or older by December 31 of the award year
- 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
- 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
- The individual is a veteran of the Armed Forces of the United States or is currently serving on active duty in the Armed Forces for other than training purposes
- The individual is a graduate or professional student
- The individual is married
- The individual has legal dependents other than a spouse
- 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, or as unaccompanied, at risk of homelessness, and self-supporting, by:
  - A local educational agency homeless liaison;
  - The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
  - 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
  - A financial aid administrator
- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

The law does not apply to students who reside with parents who are applying to receive Section 8 assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

If a student is applying for assistance on their own, apart from their parents, the PCHRC must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the PCHRC must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from their parents or the student's parents are income eligible for the program, (3) the "family" with which the student is applying is collectively eligible for the program, (4) is of legal contract age under state law, (5) has established a household separate from parents or legal guardians for at least one year, (6) is not being claimed as a dependent by parents or legal guardians pursuant to IRS regulations, and (7) obtains a certification of the amount of financial assistance provided by parents, signed providing the support.

**5-D. FAMILY CONSENT TO RELEASE OF INFORMATION [HUD Handbook 4350.3, REV-1, CHG-4, Section 5-12; Notice H 2023-10]**

The family must supply any information that the PCHRC or HUD determines is necessary to the administration of the program and must consent to PCHRC verification of that information.

All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Consent to Release of Information Forms HUD-9887 and 9887-A at admission.

On or after January 1, 2024, current residents must sign and submit a new Form HUD-9887 and 9887-A at their next interim or annual reexamination. This form will only be signed once.

Another Form HUD-9887 and 9887-A will not be submitted to the PCHRC except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PCHRC in administrative instructions.

The PCHRC has the discretion to establish policies around when family members must sign consent forms when they turn 18. PCHRC must establish these policies stating when family members will be required to sign consent forms at intervals other than at recertification.

PCHRC Policy

Household members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Forms HUD-9887 and 9887A within seven days of turning 18 years of age.

The PCHRC may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PCHRC determines the record is needed to establish an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PCHRC to revoke consent.

All adult members must also sign all PCHRC-created individual verification forms. If any family member who is required to sign a consent form fails to do so, the PCHRC will deny admission to applicants or terminate the assistance of tenants.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PCHRC to access financial records from financial institutions, unless the PCHRC establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PCHRC may not process interim or annual reexaminations of income without the family's executed consent forms.

#### PCHRC Policy

The PCHRC has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PCHRC policy.

In order for a family to revoke their consent, the family must provide written notice to the PCHRC.

Within 10 business days of the date the family provides written notice, the PCHRC will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PCHRC will notify their local HUD office.

## Chapter 6

### SCREENING CRITERIA

Screening is the determination that an otherwise eligible household has the ability to pay rent on time and meet the requirements of the lease. PCHRC is required to establish written screening criteria to prohibit admission of certain individuals and are permitted to establish additional written screening criteria to determine whether applicants will be suitable tenants.

Live-in aides are screened using the same requirements listed for applicants, with the exception of any criteria involving credit or ability to pay rent.

The cost of screening must not be charged to applicants.

#### **RAD Requirements [Notice H 2019-09]**

As stated in Chapter 5, pursuant to RAD statute, at conversion, current households are not subject to rescreening provisions. Current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

#### **6-A. REQUIRED DENIAL OF ADMISSION [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-7; 24 CFR Part 5, Subpart I]**

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

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

##### PCHRC Policy

The PCHRC will admit an otherwise-eligible family who was evicted from federally assisted housing within the past five years for drug-related criminal activity, if the PCHRC is able to verify that the person who committed the crime is no longer living in the household.

- The PCHRC determines that any household member is determined to be currently engaged in the illegal use a controlled substance (e.g., marijuana). A controlled substance is defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

##### PCHRC Policy

Are illegally using a controlled substance or are abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. *Currently engaged in* is defined as any use of illegal drugs during the previous three months.



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

PCHRC Policy

In determining reasonable cause, the PCHRC will consider all credible evidence, including but not limited to, any record of convictions or arrests of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record of arrests will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. The PCHRC will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

PCHRC Policy

At the time of application processing, the PCHRC will screen all applicants and household members for state sex offender registration in all states where the applicant and members of the applicant's household have resided using the Dru Sjodin National Sex Offender Database (<http://www.nsopw.gov>).

If it is determined that a household member is subject to a state lifetime sex offender registration requirement, the household will be denied, or assistance will be terminated, unless the ineligible household member is removed from the household. For applicant households, the ineligible household member must be removed from the application, or the application will be denied.

The PCHRC will screen all household members for state sex offender registration and criminal history at the time of each resident's annual recertification. Should there be any evidence that any member of the applicant/resident household is subject to a state lifetime sex offender registration program or that any prior records have been falsified or not properly disclosed, or that a criminal history is discovered that violates the above policies in effect at the time of the annual recertification, the resident's lease may be immediately terminated or the family will be given the opportunity to remove the offender from the household.

In the cases listed above, proof that the ineligible member has been removed from the household must be provided to management. This would include (1) executing a new lease without the ineligible household member, or (2) established utility account at another address, or (3) verification of a change in address from the U. S. Postal Service for the ineligible member.

- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

## **6-B. ASSET LIMITATION [24 CFR 5.618]**

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

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

Second, the family has real property (as defined under state law in which the property is located) that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

The PCHRC does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PCHRC must comply with all the confidentiality requirements under the Violence Against Women Act (VAWA). The PCHRC must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

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

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

### PCHRC Policy

The PCHRC defines *not sufficient for the size of the family* as being overcrowded based on the PCHRC's occupancy standards in Chapter 4 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PCHRC );

#### PCHRC Policy

In general, the PCHRC defines *a geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The PCHRC will consider circumstantial details a family faces when determining whether a geographical hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603, it will be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family is out of compliance with the asset limitation.

#### **Asset Limitation for Residents**

The PCHRC has discretion with respect to the application of the asset limitation at annual and interim recertification. The PCHRC may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

#### PCHRC Policy

The PCHRC has adopted a policy of enforcement of the asset limitation for all residents at the time of annual recertifications.

The PCHRC has adopted a policy of nonenforcement of the asset limitation for all residents at interim recertifications.

## **6-C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION**

The PCHRC is responsible for screening family behavior and suitability for tenancy.

### PCHRC Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied admission:

*Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug

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

Criminal activity that may threaten the health, safety, or welfare of other tenants

Criminal activity that may threaten the health or safety of PCHRC staff, contractors, subcontractors, or agents.

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

Evidence of such criminal activity includes, but is not limited to any record of convictions or arrests for suspected drug-related or violent criminal activity of household members within the past five years. A conviction for such activity will be given more weight than an arrest. A record of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

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

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years

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

Owes rent or other amounts to this or any other PCHRC or PHA in connection with any assisted housing program

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

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program

Has engaged in or threatened violent or abusive behavior toward PCHRC personnel

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

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

## **6-D. CONSIDERATION OF CIRCUMSTANCES**

HUD authorizes the PCHRC to consider all relevant circumstances when deciding whether to deny admission based on a family's history except in the situations for which denial of admission is mandated.

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

### PCHRC Policy

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

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

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

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking

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

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

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

Whether criminal charges were filed

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

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

Evidence of criminal conduct, if it indicates a demonstrable risk to safety or property

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

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

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

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

While the PCHRC is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform the PCHRC in accordance with Chapter 8 of this TSP that their status as a victim is directly related to the grounds for the denial. The PCHRC will request that the applicant provide enough information to the PCHRC to allow the PCHRC to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

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

#### PCHRC Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application.

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

### **Reasonable Accommodation**

#### PCHRC Policy

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

## **6-E. CREDIT HISTORY**

### PCHRC Policy

PCHRC does not conduct background credit checks for applicants.

## **6-F. RENTAL HISTORY**

### PCHRC Policy

In order to determine the suitability of applicants, the PCHRC will examine applicant history for the past five years.

Any one of the following by any household member listed on the application may result in rejection of the application:

Any history that the applicant has moved out of a residence owing a balance

Any eviction from a previous residence in the last five years for eviction from federally assisted housing for drug-related criminal activity

Four or more late payments of rent within a 12-month period from a current or previous residence

Any one report that the applicant, or their household members or guests, were destructive to the unit or common areas at a current or previous residence

Any one report that the applicant has or had poor housekeeping habits rising to the level of a health of safety threat from a current or previous residence

Any one report that the applicant caused or was involved in disturbances at a current or previous residence

Any one report that the applicant did not abide by the rules and regulations at a current or previous residence

The PCHRC will also consider utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit, and whether the applicant can get utilities turned on in their name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

Applicants with no rental payment history will also be asked to provide the PCHRC with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available.

The PCHRC will conduct housekeeping inspections.



## **6-G. EXISTING TENANT SEARCH**

As part of the application review process, HUD requires that the PCHRC use the EIV system to determine if the applicant or any member of the applicant household is currently receiving HUD assistance. The Existing Tenant Search will indicate if an applicant or any member of the household is currently receiving subsidy at another community. This report will be printed and maintained in the application file in accordance with HUD's recordkeeping requirements.

### PCHRC Policy

If the EIV Existing Tenant Search reveals that the applicant or a member of the applicant's household is currently receiving HUD rental assistance at another residence, the PCHRC must follow up first with the resident to discuss the details of their circumstances, and then with the respective PCHRC or PHA to confirm the individual's program participation status prior to admission.

The PCHRC will also attempt to coordinate move-out and move-in dates with the resident and the respective PCHRC or PHA at the other location.

In addition, applicants will be verbally notified that rental assistance will not be provided for the new unit until the day after assistance stops in the current residence.

Prior to move-in, the applicant will be required to submit to the PCHRC a move-out inspection form, signed and dated by the previous landlord.

## **6-H. MISREPRESENTATION OF INFORMATION**

An application will be rejected if during the course of processing it becomes evident that an applicant or any applicant household member has falsified or otherwise misrepresented any facts about their current situation, history, or behavior in a manner that would affect eligibility or applicant selection criteria qualifications, including preferences, income, assets, allowances, or rent. This provision shall not be applied to minor and unintentional mistakes that produce no benefit to the applicant.

## **6-F. APPEAL PROCESS**

All denied applicants have 10 days to respond in writing or to request a meeting to discuss their rejection. Appeal letters should be sent to the address on the cover page of this Resident Selection Plan. A member of the owner's staff who was not involved in the initial decision to deny admission will conduct any meeting with the applicant. A written response will be sent to the applicant within 14 days following the review meeting with the final decision.

## Chapter 7

### UNIT TRANSFER POLICY

#### 7-A. TRANSFER REQUESTS

The PCHRC is required to develop written unit transfer policies in the TSP that include transfer waiting lists, acceptable reasons for transfers, procedures for filling vacancies, and whether unit transfers take priority over applicants from the property waiting list.

The PCHRC's transfer policy must be reasonable, must ensure that families are not discriminated against based on race, color, religion, sex, national origin, age, familial status, and disability, and must be applied consistently.

##### PCHRC Policy

##### **Requests from Residents**

Once an applicant has become a resident, a transfer of units may be warranted. If a resident has a medical/health condition that warrants a unit that has special design features for a person with disabilities, a transfer may be requested. On occasion there may be other requests for transfers that the property will consider on a case-by-case basis. All transfer requests must be made in writing, and must state the reason for the request. The request will then be forwarded to the property manager/owner for final approval.

#### 7-B. TYPES OF TRANSFERS

##### PCHRC Policy

The following are the only instances in which a transfer will be approved:

##### **Emergency Transfers**

Maintenance conditions in the resident's unit, building, or at the site that pose an immediate, verifiable threat to the health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Unit is uninhabitable through no fault of the resident (i.e., fire, flood, tornado, etc.), and emergency transfers under VAWA.

##### **Uninhabitable Unit**

If there is no vacant unit available in the case of an uninhabitable unit, the resident will be directed to the Red Cross or other appropriate agencies for temporary housing, then rehoused in their original unit after all repair work has been completed.

If more than one resident is displaced due to a fire, flood, tornado, etc., households will be placed in appropriately sized vacant units in order of initial move-in date. If no vacant units are available, the same procedures will be followed as described above.

## **Violence Against Women Act (VAWA)**

For a verified incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may be established through documentation outlined in Chapter 8. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383), although, the PCHRC may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the PCHRC accepts an individual's statement, the PCHRC will document acceptance of the statement in the individual's file in accordance with Chapter 8 of this TSP.

The PCHRC will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, stalking, or human trafficking. The PCHRC will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The PCHRC defines *immediately available* as a vacant unit that is ready for move-in within a reasonable period of time, not to exceed 14 days.

The PCHRC has adopted an emergency transfer plan, which is included as Exhibit 8-1 to this plan.

These transfers are mandatory.

### **PCHRC-Required Transfers**

The types of transfers that may be required by the PCHRC include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, and transfers for demolition, disposition, revitalization, or rehabilitation.

Transfers required by the PCHRC are mandatory.

#### **Transfers to Make an Accessible Unit Available**

When a non-accessible unit becomes available, the PCHRC will transfer a family living in an accessible unit that does not require the accessible features to an available unit that is not accessible. The PCHRC may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

If a resident is required to transfer to make an accessible unit available, the resident has 30 days after they have been notified that an appropriately sized unit is available for them. If they do not move within that time frame, they are required to pay full market rent in their current unit.

### **Occupancy Standards Transfers**

The PCHRC will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

The PCHRC may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the PCHRC's occupancy standards when the PCHRC determines there is a need for the transfer.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) will only be required to transfer if it is necessary to comply with the approved exception.

If a resident is required to transfer due to a change in household composition, the resident has 30 days after they have been notified that an appropriately sized unit is available for them. If they do not move within that time frame, they are required to pay full market rent in their current unit.

### **Transfers for Medical Reasons**

The PCHRC will transfer a family to alleviate verified medical problems.

### **Transfers for Demolition, Disposition, Revitalization, or Rehabilitation**

For households temporarily displaced due to a project involving demolition, disposition, revitalization, or rehabilitation of their current unit, the PCHRC will comply with all requirements in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA).

### **RAD Requirements**

For households displaced as a direct result of the PCHRC planning or implementing resident moves due to a conversion of a public housing project under RAD, the PCHRC will comply with all requirements in the RAD Civil Rights – Relocation Notice H 2016-17.

### **Transfers Requested by Residents**

The types of requests for transfers from residents that the PCHRC will consider are limited to requests for transfers to alleviate verified medical problems of a serious or life-threatening nature, VAWA transfers, and reasonable accommodation, including the need for an accessible unit. No other transfer requests will be considered by the PCHRC.

Should a resident request a unit transfer as a reasonable accommodation, the PCHRC will pay the cost of the physical move for the resident as long as doing so does not place an undue financial and administrative burden upon the PCHRC.

## **7-C. TRANSFER LIST**

### PCHRC Policy

Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case-by-case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

### **Placement on Transfer Waiting List**

If the property manager approves a request for a transfer to a different unit, and there is no current unit available, the resident will be placed on the property's transfer waiting list. Residents needing transfers due to medical reasons must have a written physician's statement.

### **Procedures for Filling Vacancies**

If a request for a transfer to a different unit is approved, the resident agrees to pay all transfer costs prior to the move. Costs may include damages that are beyond normal wear and tear. However, if a resident is transferred as an accommodation to a household member's disability, then the owner may be obligated to pay the costs associated with the transfer as discussed under Section 504 of the Rehabilitation Act of 1973 of Chapter 2 of HUD Handbook 4350.3 REV-1.

### **Priority for Filling Vacancies**

The property will fill its vacant units with current residents awaiting transfers before applicants from the property's waiting list. Unit transfers that are required by management will take priority over resident requested transfers.

## Chapter 8

### THE VIOLENCE AGAINST WOMEN ACT (VAWA)

#### 8-A. OVERVIEW

The Violence against Women Reauthorization Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the PBRA program. If state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

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

In addition to definitions of key terms used in VAWA, this chapter contains general VAWA requirements and PCHRC policies in three areas: notification, documentation, and confidentiality, as well as the PCHRC's Emergency Transfer Plan required under VAWA.

#### 8-B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship

- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emerging technologies

#### **8-C. NOTIFICATION [24 CFR 5.2005(a)]**

##### **Notification to Public**

The PCHRC adopts the following policy to help ensure that all actual and potential beneficiaries of its program are aware of their rights under VAWA.

##### PCHRC Policy

The PCHRC will post the following information regarding VAWA in its offices. It will also make the information readily available to anyone who requests it.

A copy of form HUD-5380, Notice of Occupancy Rights Under the Violence Against Women Act (Exhibit 8-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (Exhibit 8-2)

A copy of the PCHRC's emergency transfer plan (Exhibit 8-3)

A copy of the PCHRC's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 8-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY)



## **Notification to Applicants and Tenants [24 CFR 5.2005(a)]**

The PCHRC must provide the Notice of Occupancy Rights (HUD-5380) and certification form (HUD-5382) at admission, along with any notice of denial or eviction.

### PCHRC Policy

The PCHRC will also include such information in all notices of denial of assistance.

The PCHRC will provide all tenants with information about VAWA at the time of admission and at annual reexamination. The PCHRC will also include such information in all termination of assistance and termination of tenancy (eviction) notices.

The PCHRC is not limited to providing VAWA information at the times specified in the above policy.

### PCHRC Policy

Whenever the PCHRC has reason to suspect that providing information about VAWA to a tenant or affiliated individual might place a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking at risk, it will attempt to deliver the information by hand directly to the victim, or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PCHRC may decide not to send mail regarding VAWA protections to the victim's unit if the PCHRC believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PCHRC will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

#### **8-D. VAWA COMPLAINT PROCESSING [Notice FHEO 2023-01]**

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

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

##### PCHRC Policy

Applicants or tenant families who wish to file a VAWA complaint against the PCHRC may notify the PCHRC either orally or in writing.

The PCHRC will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The PCHRC will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

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

The PCHRC will keep a record of all complaints, investigations, notices, and corrective actions.

## **8-E. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY**

### **Family Breakup**

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PCHRC must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking, see Section 8-F of this plan.)
- If a court determines the disposition of property between members of the assisted family, the PCHRC is bound by the court's determination of which family members continue to receive assistance.

#### PCHRC Policy

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

If a family breaks up into two otherwise eligible families while living on the property, only one of the new families will retain occupancy of the unit.

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

In the absence of a judicial decision or an agreement among the original family members, the PCHRC will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the PCHRC will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including a family member who was forced to leave a HUD-assisted unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 8-F of this TSP; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

## **8-F. DOCUMENTATION [24 CFR 5.2007]**

An PCHRC presented with a claim for initial or continued assistance based on status as a victim or threatened victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PCHRC may extend this time period at its discretion. However, in the case of conflicting certifications, the PCHRC may require documentation within 30 days from the date of the request [24 CFR 5.2007(a)].

The individual may satisfy the PCHRC's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1. A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation)
2. A federal, state, tribal, territorial, or local police report or court record, or an administrative record
3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, or human trafficking or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney, a mental health professional, or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PCHRC may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [24 CFR 5.2007(b)(2)].

### PCHRC Policy

Any request for documentation of domestic violence, dating violence, sexual assault, stalking or human trafficking, will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PCHRC may, at its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PCHRC will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim’s need to address health or safety issues. Any extension granted by the PCHRC will be in writing.

Once the victim provides documentation, the PCHRC will acknowledge receipt of the documentation within 10 business days.

A hearing will be held by a third party with experience in adjudicating domestic violence cases, upon mutual agreement by the PCHRC and involved parties, within 10 business days of receipt of documentation. Notification of the outcome of the hearing will be provided in writing to the involved parties within 10 business days of the meeting.

### **Conflicting Documentation [24 CFR 5.2007(b)(2)]**

In cases where the PCHRC receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PCHRC may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PCHRC may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PCHRC. The PCHRC must honor any court orders issued to protect the victim or to address the distribution of property. In cases of conflicting information, the PCHRC may require an applicant or tenant to submit third-party documentation within 30 calendar days of the date of the request for the third-party documentation.

#### PCHRC Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the PCHRC will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) and by following any HUD guidance on how such determinations should be made.

If the PCHRC does not receive third-party documentation within the required timeframe (and any extensions), the PCHRC will deny VAWA protections and will notify the applicant or tenant in writing of the denial.

The individuals requesting relief under VAWA will have 30 calendar days to submit third-party documentation. The PCHRC may, at its discretion, extend the deadline for 10 business days. Any extension granted by the PCHRC will be in writing.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(b)(1)(iv)]**

The PCHRC has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

#### PCHRC Policy

If the PCHRC accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PCHRC will document acceptance of the statement or evidence in a separate file, away from the resident's file, in a secure place.

### **Failure to Provide Documentation [24 CFR 5.2007(a)(2)]**

In order to deny relief for protection under VAWA, the PCHRC must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PCHRC may allow, the PCHRC may deny relief for protection under VAWA.

## **8-G. CONFIDENTIALITY [24 CFR 5.2007(c)]**

All information provided to the PCHRC regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that the PCHRC (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

### PCHRC Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PCHRC will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

## EXHIBIT 8-1: SAMPLE EMERGENCY TRANSFER PLAN

[Insert name of covered housing provider]

### Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

#### Section 8 Project-Based Rental Assistance Program

#### Emergency Transfers

The PCHRC is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>1</sup> the PCHRC allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The ability of the PCHRC to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PCHRC has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **Section 8 Project-Based Rental Assistance program** is in compliance with VAWA.

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<sup>1</sup> Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.



## **Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

## **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PCHRC's management office and submit a written request for a transfer to **any PCHRC office**. The PCHRC will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PCHRC's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

The PCHRC may allow for a verbal statement/self-certification in certain circumstances. While the PCHRC may request in writing that the victim provide documentation of an occurrence of domestic violence, dating violence, sexual assault, or stalking, third-party documentation may not be required to qualify the tenant for an emergency transfer.

## **Confidentiality**

The PCHRC will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PCHRC written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. Any request for protection under VAWA will be kept in a file separate from the resident/unit file, and any requests made under VAWA will not be noted in the resident/unit file. Requests made under VAWA will not be notated in any shared database systems. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PCHRC's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

## **Emergency Transfer Timing and Availability**

The PCHRC cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PCHRC will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PCHRC may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PCHRC has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PCHRC will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PCHRC will also assist tenants in contacting the local organizations offering assistance to

victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

## **Emergency Transfers: PBRA Program**

If you are a resident and request an emergency transfer as described in this plan, the PCHRC will attempt to assist you in moving to a safe unit quickly. The PCHRC will make exceptions as required to policies restricting moves.

At your request, the PCHRC will refer you to organizations that may be able to further assist you.

You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

**[INSTRUCTIONS: Revise this list to reflect housing types administered by your agency.]**

- Public housing program
- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by the PCHRC (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the PCHRC will refer you to organizations that may be able to further assist you.

## **Internal and External Transfer Requests**

The tenant may request an internal transfer within the same single or scattered site property in which the tenant resides or may request an external move to move out of the property in which they reside. The victim may request both an internal transfer and an external move concurrently if an internal safe unit is not immediately available. The PCHRC will make all reasonable efforts to assist tenants with requesting both internal transfers and external .

The PCHRC will allow the tenant to make an internal transfer when a safe unit is not immediately available. The owner defines immediately available as a vacant unit, ready for move-in within a reasonable period of time based on local factors. The PCHRC will ensure that requests for internal emergency transfers under VAWA are given the same priority already provided to other types of emergency transfer requests. The tenant will be offered the first available vacant unit ready for move-in in the same property or in another building that is part of the same scattered-site property in accordance with this plan. The victim will be allowed to

assess the availability of the units and the suitability according to the individual circumstances of the household. If the first unit offered is not suitable due to these circumstances, the PCHRC will continue to make every effort to provide an alternative unit as soon as one is available that meets the criteria for the household. If an internal transfer is not viable, the PCHRC will discuss transfer options for external moves with the victim in accordance with this plan.

An external move may be requested when a unit that meets the victim's safety standard is not available at the current property or is not immediately available. If an external move is required, the PCHRC will, at a minimum, provide the victim with contact information for relevant local service providers, government agencies, and other affordable housing developments in the area. Note that qualifying for an emergency transfer does not guarantee either continued assistance under the current program or an external move to another covered housing program. Emergency transfer requirements do not supersede any eligibility or occupancy requirements that may apply under a covered housing program. Tenants must still meet the eligibility criteria for the property to which they are moving.

### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

**EXHIBIT 8-2: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE  
VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380**

**[Insert Name of Housing Provider<sup>3</sup>]**

**Notice of Occupancy Rights under the Violence Against Women Act<sup>4</sup>**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>5</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the project-based rental assistance (PBRA) program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under the project-based rental assistance (PBRA) program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the project-based rental assistance (PBRA) program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

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<sup>3</sup> Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>4</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

<sup>5</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the project-based rental assistance (PBRA) program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

### **Removing the Abuser or Perpetrator from the Household**

The PCHRC may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PCHRC chooses to remove the abuser or perpetrator, the PCHRC may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PCHRC must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PCHRC must follow Federal, State, and local eviction procedures. In order to divide a lease, the PCHRC may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, the PCHRC may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PCHRC may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or

fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

2. **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

the PCHRC will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PCHRC's emergency transfer plan provides further information on emergency transfers, and the PCHRC must make a copy of its emergency transfer plan available to you if you ask to see it.



## **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

the PCHRC can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PCHRC must be in writing, and the PCHRC must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The PCHRC may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PCHRC as documentation. It is your choice which of the following to submit if the PCHRC asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PCHRC with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PCHRC has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PCHRC does not have to provide you with the protections contained in this notice.

If the PCHRC receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PCHRC has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PCHRC does not have to provide you with the protections contained in this notice.

### **Confidentiality**

The PCHRC must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PCHRC must not allow any individual administering assistance or other services on behalf of the PCHRC (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The PCHRC must not enter your information into any shared database or disclose your information to any other entity or individual. The PCHRC, however, may disclose the information provided if:

- You give written permission to the PCHRC to release the information on a time limited basis.
- The PCHRC needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PCHRC or your landlord to release the information.

VAWA does not limit the PCHRC's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

## **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PCHRC cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PCHRC can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PCHRC can demonstrate the above, the PCHRC should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at

<https://portal.hud.gov/hudportal/documents/huddoc?id=5720-F-03VAWAFinRule.pdf>.

Additionally, the PCHRC must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY).

You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**

**EXHIBIT 8-3: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION,  
FORM HUD-5382**

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_
2. Name of victim: \_\_\_\_\_
3. Your name (if different from victim's): \_\_\_\_\_
4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_
5. Residence of victim: \_\_\_\_\_
6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_  
\_\_\_\_\_
7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_
8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_  
\_\_\_\_\_
10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s): _____ _____ _____ _____
--

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EXHIBIT 8-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383**

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_  
\_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_  
\_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.  
\_\_\_\_\_  
\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_



## Chapter 9

### PROVISIONS REQUIRED UNDER HOTMA

#### 9-A. OVERVIEW

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The final rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA was officially published in the *Federal Register* on February 14, 2023. HUD issued notice H 2023-10 to provide guidance to PCHRC on the implementation of the program changes described in the final rule. The notice required that for certain topic areas, PCHRC establish policies in the Tenant Selection Plan. This chapter details the PCHRC's policies in those areas.

#### 9-B. DE MINIMIS ERRORS [24 CFR 5.609(c)(4); Notice H 2023-10]

PCHRC will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when PCHRC's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). PCHRC will not be issued a finding by HUD or the Contract Administrator for de minimis errors in income calculation. As PCHRC become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error. PCHRC must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PCHRC make de minimis errors in the income determination. Families will not be required to repay the PCHRC in instances where the PCHRC miscalculated income resulting in a family being undercharged for rent. PCHRC must state in the TSP how they will repay or credit a family the amount they were overcharged as a result of the PCHRC's de minimis error in income determination.

When the resident overpaid because the resident failed to report in a timely manner, a retroactive rent decrease may not be applied by the grantee prior to the later of the first of the month following:

- The date of the change leading to the interim recertification of family income; or
- The effective date of the family's most recent previous interim or annual recertification (or initial certification if that was the family's last certification).

PCHRC Policy

The PCHRC will repay any family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the PCHRC's error, including de minimis errors in income determination.

When the resident overpaid because the resident failed to report in a timely manner, a retroactive rent decrease will not be applied prior to the effective date of the family's most recent previous certification.

## **9-C. HARDSHIP EXEMPTIONS FOR HEALTH AND MEDICAL CARE AND REASONABLE ATTENDANT CARE AND AUXILLIARY APPARATUS EXPENSES [24 CFR 5.611(c); Notice H 2023-10]**

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

### **Phased-In Relief**

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim recertification, whichever occurs first after the date on which the PCHRC implements phased-in relief.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim recertification, the PCHRC must process another transaction one year later to move the family along to the next phase. The transaction can be either an interim recertification if triggered, or a non-interim recertification transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PCHRC must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another unit at the same property. When the family is treated as a new admission under a different property/program (e.g., the family moves from one multifamily property to another), unless the PCHRC has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PCHRC.

#### PCHRC Policy

The PCHRC will not continue the phased-in relief for families who move and are treated as a new admission at the property. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

#### **General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PCHRC policy) that would not otherwise trigger an interim recertification.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PCHRC develop policies defining what constitutes a hardship for purposes of this exemption.

The PCHRC must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PCHRC must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### PCHRC Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The PCHRC defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim recert in accordance with PCHRC policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the PCHRC.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PCHRC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PCHRC must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

#### PCHRC Policy

The PCHRC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the family qualifies for an exemption, the PCHRC will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PCHRC may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PCHRC are not limited to a maximum number of 90-day extensions.

PCHRC must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PCHRC must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

#### PCHRC Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PCHRC will extend relief for an additional 90 days if the family demonstrates to the PCHRC's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PCHRC will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PCHRC may terminate the hardship exemption if the PCHRC determines that the family no longer qualifies for the exemption.

## **9-D. CHILD CARE EXPENSE HARDSHIP EXEMPTION [24 CFR 5.611(d) and Notice H 2023-10]**

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PCHRC's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PCHRC must recalculate the family's adjusted income and continue the child care deduction.

The PCHRC must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PCHRC must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PCHRC must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

### PCHRC Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PCHRC defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PCHRC will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PCHRC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PCHRC must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PCHRC denies the request, the notice must specifically state the reason for the denial. PCHRC must provide families 30 days' notice of any increase in rent.

If the PCHRC approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PCHRC if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption.

#### PCHRC Policy

The PCHRC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the family qualifies for an exemption, the PCHRC will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PCHRC may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PCHRC policies. PCHRC are not limited to a maximum number of 90-day extensions. PCHRC must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PCHRC must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PCHRC denies the request, the notice must specifically state the reason for the denial.

PCHRC must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

#### PCHRC Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PCHRC will extend relief for an additional 90 days if the family demonstrates to the PCHRC's satisfaction that the family continues to qualify for the hardship exemption. The PCHRC will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PCHRC may terminate the hardship exemption if the PCHRC determines that the family no longer qualifies for the exemption.



## **9-E. SELF-CERTIFICATION OF CERTAIN ASSETS**

### **Net Family Assets [24 CFR 5.603]**

For families with net assets totaling \$50,000 or less (adjusted annually for inflation), the PCHRC may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b). This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. The PCHRC may not calculate or include any imputed income from assets when net family assets total \$50,000 or less (adjusted annually for inflation). PCHRC must clarify during the self-certification process which assets are included or excluded from net family assets.

For PCHRC that choose to accept self-certification, the PCHRC is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PCHRC who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000 (adjusted annually for inflation), the PCHRC may not rely on the family's self-certification. Third-party verification of assets is required. Income from assets in this situation is calculated using the following methods:

- If actual returns can be calculated for an asset, the PCHRC must include actual income from the asset.
- If actual returns cannot be calculated, the PCHRC must calculate imputed returns using the HUD-determined passbook rate, which is subject to change annually for inflation. Imputed income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate.
- If the PCHRC can compute actual income from some but not all assets, the PCHRC must compute actual returns where possible and use the HUD-determined passbook rate where actual income cannot be calculated.

When verification of assets is required, PCHRC are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### PCHRC Policy

For families with net assets totaling \$50,000 or less, the PCHRC will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PCHRC reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the PCHRC will use the current balance as reflected on the most recent bank statement.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PCHRC will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

## **Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]**

The PCHRC must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation. The PCHRC may accept a self-certification from the family stating that the family does not have any present ownership in any real property. If the family certifies that they do not have any present ownership interest in real property, the PCHRC may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the PCHRC must obtain third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

### PCHRC Policy

The PCHRC will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PCHRC reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PCHRC will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PCHRC will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

## **9-F. INTERIM RECERTIFICATIONS**

### **Interim Decreases [24 CFR 982.516(c)(2) and Notice H 2023-10]**

A family may request an interim determination of family income for any change since the last determination. However, the PCHRC may decline to conduct an interim recertification if the PCHRC estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PCHRC may set a lower threshold in the PCHRC's policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PCHRC from setting a dollar-figure threshold.

#### PCHRC Policy

The PCHRC will conduct an interim recertification any time the family's adjusted income has decreased by any amount.

However, while the PCHRC has some discretion, HUD requires that the PCHRC perform an interim recertification for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last recertification.

In the above circumstances, the PCHRC must perform an interim recertification for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then the PCHRC must process the removal of the household members as a non-interim recertification transaction without making changes to the family's annual adjusted income.

## **Interim Increases [24 CFR 982.516(c)(3) and Notice H 2023-10]**

PCHRC must not process interim recertifications for income increases that result in less than a 10 percent increase in annual adjusted income. PCHRC must conduct an interim recertification of family income when the PCHRC becomes aware that the family's adjusted income has changed by an amount that the PCHRC estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PCHRC may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same recertification cycle; and
- PCHRC may choose not to conduct an interim recertification during the last three months of a certification period if a family reports an increase in income within three months of the next annual recertification effective date.

When the family previously received an interim recertification for a decrease to adjusted income during the same annual recertification cycle, an PCHRC has the discretion whether to consider a subsequent increase in earned income.

### PCHRC Policy

When a family reports an increase in their earned income between annual recertifications, the PCHRC will not conduct an interim recertification, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual recertification.

The PCHRC will process an interim recertification for any increases in unearned income of 10 percent or more in adjusted income.

The PCHRC will not perform an interim recertification when a family reports an increase in income (whether earned or unearned income) within three months of their annual recertification effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10 percent increase threshold, at which point the PCHRC must conduct an interim recertification in accordance with PCHRC policy.

When the family reports an increase in both earned and unearned income at the same time, the PCHRC must look at the earned and unearned income changes independently of each other to determine if an interim recertification is performed. The PCHRC will only conduct an interim recertification when the increase independently meets the 10 percent threshold and all other requirements for performing interim recertifications. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PCHRC may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PCHRC would be required to perform an interim. If the change in earned income met the 10

percent threshold in this case, the PCHRC would refer to PCHRC policy to determine whether an interim was required.

## ***Family Reporting***

The PCHRC must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition, or other circumstances that may affect the family's subsidy amount or rent portion. Other circumstances may include, but are not limited to, changes in eligible deductions or citizenship status.

PCHRC policy may require families to report only changes that the family estimates meet the threshold for an interim recertification or the PCHRC may establish policies requiring that families report all changes in income, household composition, and any other change that may affect the family's adjusted income, and the PCHRC will subsequently determine if the change requires an interim recertification.

When the PCHRC determines that an interim recertification is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets or other changes in circumstances that would result in a change in the family's adjusted income, the change in assets must also be reviewed.

### PCHRC Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report all changes in income within 10 business days of the date the change takes effect. The family may notify the PCHRC either orally or in writing. If the family provides oral notice, the PCHRC may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, the PCHRC will determine whether the change will require an interim recertification.

If the change will not result in an interim recertification, the PCHRC will note the information in the tenant file but will not conduct an interim recertification. The PCHRC will send the family written notification within 10 business days of making this determination informing the family that the PCHRC will not conduct an interim recertification.

If the change will result in an interim recertification, the PCHRC will determine the documentation the family will be required to submit based on the type of change reported. The PCHRC will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PCHRC. This time frame may be extended for good cause with PCHRC approval. The PCHRC will accept required documentation by mail, email, fax, or in person. The PCHRC will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim recertification. However, if the PCHRC determines that an interview is warranted, the family may be required to attend.

### **Changes Reported Timely**

If the family reports a change in family income, composition, or other circumstances affecting adjusted income timely in accordance with PCHRC policies:

- For rent increases, the PCHRC must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim recertification of family income. This means the decrease will be applied retroactively.

### **Changes Not Reported Timely**

If the family failed to report a change in family income, composition, or other circumstances affecting adjusted income timely in accordance with PCHRC policies:

- For rent increases, the PCHRC must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim recertification of family income.
- For rent decreases, the PCHRC must implement the change no later than the first rent period following completion of the interim recertification.

However, the PCHRC may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the recertification. PCHRC may choose to establish conditions or requirements for when such a retroactive application would apply. PCHRC that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim recertification;  
or
- The first of the month following the most recent previous income examination.



In applying a retroactive change in rent as the result of an interim recertification, the PCHRC must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

#### PCHRC Policy

In general, when the family fails to report a change in income, family composition, or other circumstances affecting adjusted income timely, and the change would lead to a rent decrease, the PCHRC will apply the decrease the first of the month following completion of the interim recertification.

However, the PCHRC will apply the results of the interim recertification retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PCHRC management operations. The PCHRC will decide to apply decreases retroactively on a case-by-case basis.

When the PCHRC applies the results of interim decreases retroactively, the PCHRC will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PCHRC policies.

The PCHRC will also clearly communicate the effect of the retroactive adjustment to the owner.

**9-G. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice H 2023-10]**

PCHRC may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs (Safe Harbor). PCHRC are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PCHRC adopts a policy to accept this type of verification, the PCHRC must establish in policy when they will accept Safe Harbor income determinations and from which programs. PCHRC must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the PCHRC elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PCHRC will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PCHRC:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PCHRC are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PCHRC. PCHRC are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PCHRC is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PCHRC must calculate the family's annual income using traditional methods as outlined in Notice H 2023-10.

If the PCHRC uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PCHRC's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PCHRC are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

#### PCHRC Policy

When available and applicable, the PCHRC will accept other programs' Safe Harbor determinations of income at annual recertification to determine the family's total annual income. The PCHRC will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the PCHRC will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PCHRC will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PCHRC will obtain third-party verification of all sources of income and assets (as applicable).

The PCHRC will not accept other programs' determinations of income for any new admission or interim recertification.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PCHRC will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;

- State the family size

- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PCHRC does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PCHRC will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PCHRC will use the most recent income determination, unless the family presents acceptable evidence that the PCHRC should consider an alternative verification from a different Safe Harbor source.

When the PCHRC uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PCHRC. Depending on when the change occurred, the change may or may not impact the PCHRC's calculation of the family's total annual income. Changes that occur between the time the PCHRC receives the Safe Harbor documentation and the effective date of the family's annual recert will not be considered. If the family has a change in income that occurs after the annual recert effective date, the PCHRC will conduct an interim recert if the change meets the requirements for performing an interim recertification. In this case, the PCHRC will use third-party verification to verify the change.

#### **9-H. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice H 2023-10]**

HUD permits PCHRC to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained at move-in and every three years thereafter, in the intervening years, the PCHRC may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PCHRC may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PCHRC must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PCHRC may apply the inflationary adjustment factor to the family's fixed income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PCHRC may choose to adjust sources of non-fixed income based on third-party verification. PCHRC have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PCHRC may apply a COLA to each of the family's sources of fixed income. PCHRC must determine all other income using standard verification requirements.

#### PCHRC Policy

When the PCHRC does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PCHRC will use a streamlined income determinations where applicable.

Regardless of the percent of a family's unadjusted income from fixed income sources:

The PCHRC will streamline the annual recertification process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.

The PCHRC will document in the file how the determination that a source of income was fixed was made.

If the family's sources of fixed income have changed from the previous year, the PCHRC will obtain third-party verification of any new sources of fixed income.

All other income will be verified using third-party verification as applicable.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PCHRC will obtain third-party verification, as applicable:

Of all assets when net family assets exceed \$50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During move-in and at least once every three years thereafter.