

LOW INCOME HOUSING TAX CREDIT (LIHTC)  
ADMISSIONS AND CONTINUED OCCUPANCY POLICY

HOUSING AUTHORITY  
OF THE  
CITY OF SANTA BARBARA

Santa Barbara, California

Approved by HACSB Commission:

Feb. 1, 2017

**LIHTC ACOP -Table of Contents**

---

**Chapter 1  
OVERVIEW OF THE PROGRAM AND PLAN**

PART I: Overview of Program and Plan ..... 1-1  
1-I.A. HACSB Mission ..... 1-1  
1-I.B. HACSB’s Commitment to Ethics and Service ..... 1-2

PART II: THE Admissions and Continued Occupancy Policies ..... 1-4  
1-II.A. Overview and Purpose of the Policy..... 1-4  
1-II.B. Contents of the Policy ..... 1-4

## LIHTC ACOP -Table of Contents

---

### Chapter 2 FAIR HOUSING AND EQUAL OPPORTUNITY

PART I:	NONDISCRIMINATION.....	2-3
2-I.A.	Overview .....	2-3
2-I.B.	Nondiscrimination .....	2-4
	Discrimination Complaints.....	2-5
PART II:	POLICIES RELATED TO PERSONS WITH DISABILITIES .....	2-7
2-II.A.	Overview .....	2-7
2-II.B.	Definition of Reasonable Accommodation.....	2-8
	Types of Reasonable Accommodations.....	2-8
2-II.C.	Request for an Accommodation.....	2-9
2-II.D.	Verification of Disability.....	2-10
2-II.E.	Approval/Denial of a Requested Accommodation.....	2-11
2-II.F.	Program Accessibility for Persons with Hearing or Vision Impairments .....	2-12
2-II.G.	Physical Accessibility.....	2-13

### Chapter 3 ELIGIBILITY

PART I:	DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS .....	3-3
3-I.A.	Overview .....	3-3
3-I.B.	Family and Household .....	3-3
3-I.C.	Family Breakup and Remaining Member of Tenant Family .....	3-4
	Family Breakup .....	3-4
	Remaining Member of a Tenant Family .....	3-4
3-I.D.	Head of Household .....	3-5
3-I.E.	Spouse, Cohead, and Other Adult .....	3-5
3-I.F.	Dependent .....	3-6
	Joint Custody of Dependents.....	3-6
3-I.G.	Full-Time Student.....	3-6
3-I.H.	Elderly and Near-Elderly Persons, and Elderly Family .....	3-8
3-I.J.	Guests .....	3-9
3-I.K.	Foster Children and Foster Adults .....	3-10
3-I.L.	Absent Family Members.....	3-11
	Definitions of Temporarily and Permanently Absent.....	3-11
	Absent Students.....	3-11
	Absences Due to Placement in Foster Care.....	3-11
	Absent Head, Spouse, or Cohead .....	3-12
	Family Members Confined for Medical Reasons .....	3-12
	Return of Permanently Absent Family Members.....	3-12
3-I.M.	Live-In Aide .....	3-13

## LIHTC ACOP -Table of Contents

---

PART II:	BASIC ELIGIBILITY CRITERIA.....	3-14
3-II.A.	Income Eligibility and Targeting .....	3-14
	Income Limits.....	3-14
	Using Income Limits for Eligibility.....	3-14
3-II.B.	Social Security Numbers .....	3-14
PART III:	DENIAL OF ADMISSION .....	3-16
3-III.A.	Overview .....	3-16
3-III.B.	Denial of Admission .....	3-16
3-III.C.	Other Reasons for Denial of Admission.....	3-17
	Criminal Activity.....	3-17
	Previous Behavior .....	3-19
3-III.D.	Screening .....	3-20
	Screening for Eligibility .....	3-20
	Screening for Suitability as a Tenant .....	3-20
	Resources used to check Applicant Suitability .....	3-21
3-III.E.	Criteria for Deciding to Deny Admission .....	3-23
	Evidence.....	3-23
	Consideration of Circumstances.....	3-23
	Removal of a Family Member's Name from the Application .....	3-25
	Reasonable Accommodation.....	3-25
3-III.F.	Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking.....	3-26
	Notification .....	3-26
	Documentation .....	3-26
	Perpetrator Documentation .....	3-26
3-III.G.	Notice of Eligibility or Denial .....	3-27
Exhibit 3-1:	Detailed Definitions Related to Disabilities .....	3-28

## LIHTC ACOP -Table of Contents

---

### Chapter 4

#### APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I:	THE APPLICATION PROCESS.....	4-3
	4-I.A. Overview.....	4-3
	4-I.B. Applying for Assistance.....	4-3
	4-I.C. Placement on the Waiting List.....	4-4
	Ineligible for Placement on the Waiting List.....	4-4
	Eligible for Placement on the Waiting List.....	4-4
PART II:	MANAGING THE WAITING LIST.....	4-6
	4-II.A. Overview.....	4-6
	4-II.B. Organization of the Waiting List.....	4-6
	4-II.C. Opening and Closing the Waiting List.....	4-6
	Closing the Waiting List.....	4-6
	Reopening the Waiting List.....	4-6
	4-II.D. Family Outreach.....	4-8
	4-II.E. Reporting Changes in Family Circumstances.....	4-8
	4-II.F. Updating the Waiting List.....	4-9
	Purging the Waiting List.....	4-9
	Removal from the Waiting List.....	4-10
PART III:	TENANT SELECTION.....	4-12
	4-III.A. Selection Method.....	4-12
	Program Facilitation.....	4-12
	Unit Matching.....	4-12
	4-III.B. Order of Section.....	4-13
	4-III.C. Program Facilitation.....	4-12
	4-III.D. The Application Interview.....	4-15
	4-III.E. Final eligible Determination.....	4-16

**LIHTC ACOP -Table of Contents**

---

**Chapter 5  
Occupancy Standards and Unit Offers**

PART I:	Occupancy Standards.....	5-1
	5-I.A. Overview .....	5-1
	5-I.B. Determining Unit Size .....	5-2
	5-I.C. Exceptions to Occupancy Standards .....	5-3
	Types of Exceptions .....	5-3
	Processing of Exceptions .....	5-3
PART II:	UNIT OFFERS .....	5-4
	5-II.A. Overview .....	5-4
	5-II.B. Number of Offers.....	5-4
	5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL.....	5-4
	5-II.D. Refusals of unit offers.....	5-4
	5-II.E. Accessible units.....	5-5

## LIHTC ACOP -Table of Contents

### Chapter 6 INCOME AND SUBSIDY DETERMINATIONS

PART I:	ANNUAL INCOME.....	6-2
6-I.A.	Overview .....	6-3
6-I.B.	Household Composition and Income .....	6-4
	Summary of Income Included and Excluded by Person .....	6-4
	Temporarily Absent Family Members .....	6-4
	Family Members Permanently Confined for Medical Reasons .....	6-5
	Joint Custody of Dependents.....	6-5
	Caretakers for a Child .....	6-6
6-I.C.	Anticipating Annual Income .....	6-7
	Basis of Annual Income Projection .....	6-7
6-I.D.	Earned Income .....	6-8
	Types of Earned Income Included in Annual Income .....	6-8
	Types of Earned Income <u>Not</u> Counted in Annual Income .....	6-8
6-I.E.	Business Income [24 CFR 5.609(b)(2)] .....	6-10
	Business Expenses .....	6-10
	Business Expansion .....	6-10
	Capital Indebtedness .....	6-11
	Negative Business Income .....	6-11
	Withdrawal of Cash or Assets from a Business .....	6-11
	Co-owned Businesses .....	6-11
6-I.F.	Assets [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)] .....	6-12
	Overview .....	6-12
	General Policies .....	6-12
	Types of Assets .....	6-16
6-I.G.	Periodic Payments .....	6-20
	Periodic Payments <u>Included</u> in Annual Income .....	6-20
	Lump-Sum Payments for the Delayed Start of a Periodic Payment.....	6-20
	Treatment of Overpayment Deductions from Social Security Benefits.....	6-20
	Periodic Payments <u>Excluded</u> from Annual Income.....	6-21
6-I.H.	Payments In Lieu of Earnings.....	6-22
6-I.I.	Welfare Assistance .....	6-23
6-I.J.	Periodic and Determinable Allowances [24 CFR 5.609(b)(7)] .....	6-24
	Alimony and Child Support .....	6-24
	Regular Contributions or Gifts.....	6-24
6-I.K.	Additional Exclusions from Annual Income .....	6-25
Exhibit 6-1:	Annual Income Inclusions .....	6-28
	HHS Definition of "Assistance" .....	6-29

**LIHTC ACOP -Table of Contents**

---

Exhibit 6-2: Annual Income Exclusions..... 6-30

**Chapter 7  
VERIFICATION**

**PART I: GENERAL VERIFICATION REQUIREMENTS ..... 7-1**

- 7-I.A. Family Consent to Release of Information ..... 7-1
  - Consent Forms ..... 7-1
  - Penalties for Failing to Consent ..... 7-1
- 7-I.B. Overview of Verification Requirements ..... 7-2
  - Requirements for Acceptable Documents ..... 7-2
  - File Documentation ..... 7-2
- 7-I.C. Up-Front Income Verification (UIV) ..... 7-3
- 7-I.D. Third-Party Written and Oral Verification ..... 7-3
  - Written Third-Party Verification ..... 7-3
  - Written Third-Party Verification Form ..... 7-4
  - Oral Third-Party Verification ..... 7-4
- 7-I.E. Self-Certification ..... 7-5

**PART II: VERIFYING FAMILY INFORMATION ..... 7-6**

- 7-II.A. Verification of Legal Identity ..... 7-6
- 7-II.B. Social Security Numbers ..... 7-7
- 7-II.C. Documentation of Age ..... 7-7
- 7-II.D. Family Relationships ..... 7-8
  - Marriage ..... 7-8
  - Separation or Divorce ..... 7-8
  - Absence of Adult Member ..... 7-9
  - Foster Children and Foster Adults ..... 7-9
- 7-II.E. Verification of Student Status ..... 7-9
- 7-II.F. Citizenship or Eligible Immigration Status ..... 7-9
  - Overview ..... 7-9
  - U.S. Citizens and Nationals ..... 7-9
  - Eligible Immigrants ..... 7-10
- 7-II.G. Verification of Preference Status ..... 7-10



**LIHTC ACOP -Table of Contents**

---

PART III:	VERIFYING INCOME AND ASSETS.....	7-12
7-III.A.	Earned Income.....	7-12
7-III.B.	Business and Self Employment Income.....	7-12
7-III.C.	Periodic Payments and Payments In Lieu of Earnings.....	7-13
	Social Security/SSI Benefits.....	7-13
7-III.D.	Alimony or Child Support.....	7-14
7-III.E.	Assets and Income from Assets.....	7-15
	Assets Disposed of for Less than Fair Market Value .....	7-15
7-III.F.	Net Income from Rental Property .....	7-15
7-III.G.	Retirement Accounts .....	7-16
Exhibit 7-1:	Summary of Documentation Requirements for Noncitizens .....	7-18

## LIHTC ACOP -Table of Contents

---

### Chapter 8 LEASING AND INSPECTIONS

PART I:	Introduction .....	8-1
	8-I.A. Overview .....	8-1
	8-I.B. Lease Orientation .....	8-2
	8-I.C. Execution of Lease .....	8-3
	8-I.D. Modification to the Lease.....	8-4
	Modifications to the lease form .....	8-4
	Other Modifications.....	8-4
	8-I.E. Security Deposits .....	8-5
	8-I.F. Payments Under the Lease.....	8-6
PART II:	INSPECTIONS.....	8-9
	8-II.A. Overview.....	8-9
	8-II.B. Types of Inspections .....	8-9
	Move in Inspections.....	8-9
	Move-Out Inspections .....	8-9
	Annual Inspections .....	8-9
	Special Inspections.....	8-10
	Other Inspections .....	8-10
	8-II.C. Notice and Scheduling of Inspections .....	8-11
	Non-Emergency Entries .....	8-11
	Emergency Entries .....	8-11
	Scheduling of Inspections .....	8-11
	Attendance at Inspections.....	8-11
	8-II.D. Inspection Results.....	8-13
	Emergency Repairs .....	8-13
	Non-emergency Repairs .....	8-14
	Resident-Caused Damages .....	8-14
	Housekeeping .....	8-14

**Chapter 9**  
**REEXAMINATIONS**

9-I.A.	Reexaminations .....	9-3
9-I.B.	Scheduling Annual Reexaminations .....	9-3
9-I.C.	Conducting Annual Reexaminations.....	9-5
9-I.D.	Effective Dates .....	9-7
9-II	Interim Reexaminations .....	9-8
9-II.A.	Overview .....	9-8
9-II.B.	Changes in Family and Household Composition .....	9-8
9-II.C.	Changes Affecting Income or Expenses .....	9-10
9-II.D.	Processing the Interim Reexamination.....	9-12
9-III.A.	Overview .....	9-14
9-III.B.	Changes in Utility Allowances.....	9-14
9-III.C.	Notification of New Tenant Rent.....	9-14
9-III.D.	Overview .....	9-15

## LIHTC ACOP -Table of Contents

---

### Chapter 10 PETS

PART I:	ASSISTANCE ANIMALS.....	10-1
	10-I.A. Overview .....	10-3
	10-I.B. Approval of Assistance Animals.....	10-4
	10-I.C. Care and Handling.....	10-5
PART II:	PET POLICIES FOR ALL DEVELOPMENTS .....	10-7
	10-II.A. Overview .....	10-7
	10-II.B. Management Approval of Pets.....	10-7
	Refusal to Register Pets .....	10-8
	Pet Agreement .....	10-8
	10-II.C. STANDARDS FOR PETS .....	10-9
	Definition of Common Household Pet.....	10-9
	Pet Restrictions.....	10-10
	Number of Pets.....	10-10
	Other Requirements .....	10-10
	10-II.D. PET RULES .....	10-11
	Pet Area Restrictions .....	10-11
	Designates Pet/No-Pet Areas .....	10-11
	Cleanliness.....	10-12
	Alterations to Unit.....	10-12
	Noise.....	10-12
	Pet Care .....	10-12
	Responsible Parties .....	10-13
	Pets Temporarily on the Premises .....	10-13
	Pet Rule Violations .....	10-13
	Notice for Pet Removal .....	10-14
	Pet Removal.....	10-14
	Termination of Tenancy .....	10-14
	Emergencies .....	10-15
PART III	PET DEPOSITS AND FEES	
	10-III.A. Overview .....	10-17
	10-III.B. Pet Deposits .....	10-17
	10-III.C. Other Charges .....	10-18

## LIHTC ACOP -Table of Contents

---

### Chapter 11 LEASE TERMINATIONS

PART I:	TERMINATION BY TENANT.....	11-1
	11-I.A. Tenant Chooses to Terminate the Lease .....	11-2
PART II:	TERMINATION BY HACSB .....	11-4
	11-II.A. Overview .....	11-4
	11-II.B. Failure to Accept HACSB’s Offer of a Lease Revision .....	11-4
	11-II.C. Methamphetamine Conviction.....	11-5
	11-II.D. Lifetime Registered Sex Offenders .....	11-5
	11-II.E. Death of a Sole Family Member .....	11-5
	11-II.F. Lease Provisions.....	11-5
	11-II.G. Alternative to Termination of Tenancy .....	11-11
	11-II.H. Criteria for Deciding to terminate Tenancy.....	11-12
	11-II.I. Terminations Related to Domestic Violence, Dating Violence, Stalking, or Sexual Assault .....	11-15
PART III:	LEASE TERMINATION NOTICE .....	11-18
	11-III.A. Lease Termination Notice .....	11-18
	11-III.B. Eviction .....	11-19
	11-III.C. Record Keeping.....	11-20

### Chapter 12 GRIEVANCES AND APPEALS

PART I:	Informal Hearings for LIHTC Housing Applicants .....	12-1
	12-I.A. Overview .....	12-1
	12-I.B. Informal Hearing Process.....	12-1
PART II:	Grievance Procedures for LIHTC Residents .....	12-4
	12-II.A. Requirements .....	12-4
	12-II.B. Definitions.....	12-4
	12-II.C. Selection of Hearing Officer/Panel .....	12-5
	12-II.D. Procedures Governing the Hearing .....	12-5

**Chapter 13**  
**PROGRAM ADMINISTRATION**

PART I:	Setting Utility Allowances .....	13-3
	13-I.A. Overview .....	13-3
	13-I.B. Utility Allowances .....	13-3
PART II:	FAMILY DEBTS TO HACSB.....	13-4
	13-II.A. Overview .....	13-4
	13-II.B. Repayment Policy .....	13-4
PART III:	RECORD KEEPING .....	13-5
	13-III.A. Overview .....	13-5
	13-III.B. Records Management .....	13-6
PART IV:	Violence Against Women Act (VAWA) .....	13-9
	13-IV.A. Overview .....	13-9
	13-IV.B. Definitions .....	13-9
	13-IV.C. Notification .....	13-10
	13-IV.D. Documentation .....	13-12
	13-IV.E. Confidentiality .....	13-14

## Chapter 1

### OVERVIEW OF THE PROGRAM AND PLAN

#### INTRODUCTION

It is the intended fundamental policy of the Housing Authority of the City of Santa Barbara (herein after “Housing Authority” and/or “Authority”) to operate all of its housing programs in a manner that ensures equal access and opportunity, provides for safe and decent housing, and meets the needs of the residents for whom the housing was developed to the greatest extent possible. At the same time, the Authority recognizes that it must operate and maintain itself in a fiscally solvent manner by controlling operating and capital expenses and establishing tenant rents that ensure solvency, and, at the same time, adhere to the occupancy requirements and rent limitations for a given development as dictated by its funding sources, e.g. LIHTC, HOME, Section 8, etc.

This Admissions and Continued Occupancy Policy will apply to all Low Income Housing Tax Credit financed units operated by the Housing Authority. These units are referred to herein as “Tax Credit” or “LIHTC” units.

The Housing Authority has determined that the City of Santa Barbara is experiencing continued growth in the number of persons and families in need of affordable housing. This demand requires that the Housing Authority utilize a variety of affordable housing programs for the development, management, leasing and/or operation of additional low rent housing. The Low Income Housing Tax Credit (LIHTC) program for which this policy is being established is an important vehicle for achieving our goals in this regard.

#### 1-A. HACSB MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

##### HACSB Policy

The Housing Authority of the City of Santa Barbara is a local public agency created under State law for the purpose of providing safe, decent, and quality affordable housing and support services to income eligible persons through a variety of Federal, State, local and private resources.

## **1-B. HACSB'S COMMITMENT TO ETHICS AND SERVICE**

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

- Provide decent, safe, and sanitary housing in good repair – in compliance with program physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing HACSB's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of HACSB's support systems and commitment to our employees and their development.

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





## **THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES**

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

The ACOP is HACSB's written statement of policies used to carry out the housing program in accordance with federal law and regulations. The ACOP also contains policies that support the objectives contained in HACSB's Agency Plan.

All issues related to LIHTC not addressed in this ACOP are governed by regulations, HUD handbooks and guidebooks, notices and applicable state and local laws.

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

This ACOP plan cover HACSB policies on the following subjects:

- The organization of the waiting list and how families are selected and offered available units, including HACSB admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening HACSB waiting list
- Transfer policies and the circumstances under which a transfer would take precedence over an admission
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed
- Procedures for verifying the information the family has provided
- Grievance procedures
- Policies concerning payment by a family to HACSB of amounts the family owes HACSB

## Chapter 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

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

This chapter describes HUD regulations and HACSB policies related to these topics in two parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of HACSB regarding nondiscrimination.

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



## PART I: NONDISCRIMINATION

### 2-I.A. OVERVIEW

Federal laws require HACSB 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. HACSB 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 Violence against Women Act of 2013 (VAWA)
- 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
- 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.

## **2-I.B. NONDISCRIMINATION**

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements can prohibit discrimination against additional classes of people.

HACSB 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.

HACSB will not discriminate on the basis of marital status, gender identity, or sexual orientation.

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

## **Discrimination Complaints**

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

### HACSB Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify HACSB either orally or in writing.

HACSB will attempt to remedy discrimination complaints made against HACSB.

HACSB will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).





## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

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

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

HACSB must ensure that persons with disabilities have full access to HACSB's programs and services.

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

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

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

### **Types of Reasonable Accommodations**

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

- Permitting applications and reexaminations to be completed by mail
- Providing “large-print” forms
- Conducting home visits
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing an HACSB-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HACSB staff
- Displaying posters and other housing information in locations throughout HACSB's office in such a manner as to be easily readable from a wheelchair

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

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HACSB will 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 HACSB's programs and services.

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

### HACSB Policy

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

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

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter.

Before providing an accommodation, HACSB 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 HACSB's programs and services.

If a person's disability is obvious or otherwise known to HACSB, 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 HACSB, HACSB must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, HACSB will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated as confidential information. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

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

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

HACSB 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 HACSB, or fundamentally alter the nature of HACSB'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 HACSB'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, HACSB 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 HACSB may verify the need for the requested accommodation.

### HACSB Policy

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

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

If HACSB believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, HACSB will notify the family, in writing.

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

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

### HACSB Policy

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

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

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

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

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

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





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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

## Chapter 3

### ELIGIBILITY

#### INTRODUCTION

HACSB is responsible for ensuring that every individual and family admitted to the LIHTC program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by HACSB to confirm eligibility.

To be eligible for the LIHTC program:

- The applicant family must:
  - Qualify as a family as defined by HUD and HACSB.
  - Have income at or below LIHTC-specified income limits.
  - Meet suitability requirements for admission
  - Provide social security number information for family members as required.
  - Consent to HACSB’s collection and use of family information as provided for in HACSB-provided consent forms.
  - Family must not be comprised of entirely full time students
- HACSB must determine that the current or past behavior of household members does not include activities that are prohibited by the Tax Credit Allocation Committee, HUD or HACSB.

This chapter contains three parts:

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

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

Part III: Denial of Admission. This part covers factors related to an applicant’s past or current conduct (e.g. criminal activity) that can cause HACSB to deny admission.



## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

### 3-I.A. OVERVIEW

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

### 3-I.B. FAMILY AND HOUSEHOLD

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

#### **Family**

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. HACSB has the discretion to determine if any other group of persons qualifies as a family.

*Gender Identity* means actual or perceived gender characteristics.

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

#### HACSB Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

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

#### **Household**

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

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

#### **Family Breakup**

##### HACSB 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 in a LIHTC, 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 as a part of a divorce or separation decree, HACSB will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, HACSB will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, HACSB 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, or stalking and provides documentation in accordance this Plan; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

#### **Remaining Member of a Tenant Family**

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

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, an eligible adult must be added to the household should the tenancy continue.

### **3-I.D. HEAD OF HOUSEHOLD**

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

#### HACSB Policy

The family may designate any qualified family member as the head of household.

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

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

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

#### HACSB Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

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

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

### **3-I.F. DEPENDENT**

A *dependent* is a family member who is under 18 years of age.

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

##### HACSB Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 51 percent or more of the time, or if the family has been granted physical custody of the minor child.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, HACSB will make the determination based on available documents such as school records, court orders, or an IRS income tax return showing which family has claimed the child for income tax purposes, school records or other credible documentation.

### **3-I.G. FULL-TIME STUDENT (including K-12 and adult dependents)**

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to determine if attendance is full-time is defined by the educational institution. A student is considered full-time if enrolled as full-time for five or more months per the current calendar year. Months need not be consecutive, and any one day within a month constitutes full time for that one month. (Example: a full time student from May 29<sup>th</sup>-May 31<sup>st</sup>, would be considered a full time student for the month of May.)

Identifying each FTS is important because (1) families consisting of all full-time students are ineligible for assistance and (2) all forms of financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income except for students receiving Section 8 assistance.

Eligibility exceptions to families consisting of full-time students are as follows:

- All members of the household are married and either file or are entitled to file a joint tax return. (Married couples with school age children would not qualify under this exception as the children are not married).
- The household consists of at least one single parent and his or her minor children, and the parent is not a dependent of a third party. Any children may be claimed as a dependent of either parent, regardless of tenancy in unit.
- At least one member of the household receives assistance under Title IV of the Social Security Act (AFDC, TANF, CalWorks, etc. Not SSA or SSI).



- At least one member is enrolled in a job training program receiving assistance under the Work Investment Act (WIA) formerly known as the Job Training Partnership Act, or similar federal, state or local laws.
- At least one member of the household is under age 24 and has exited the Foster Care system within the previous 6 years.

### **3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY**

#### **Elderly Persons**

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

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

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

#### **Elderly Family**

An *elderly family* is one in which the head, spouse, or sole member is an elderly person.

### **3-I.J. GUESTS**

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

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests. Adult members of the household are responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near the premises.

#### HACSB Policy

A resident family must notify HACSB when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 51 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

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

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

*Foster adults* are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone.

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

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income.

#### HACSB Policy

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

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

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

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

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

##### HACSB Policy

Generally an individual who is or is expected to be absent from the LIHTC unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the LIHTC unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

#### **Absent Students**

##### HACSB Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to HACSB indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

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

##### HACSB Policy

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

## **Absent Head or Spouse**

### HACSB Policy

An employed head, spouse, or cohead absent from the unit more than 90 consecutive days due to employment will continue to be considered a family member.

## **Individuals Confined for Medical Reasons**

### HACSB Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, HACSB will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent for up to 180 days. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

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

### HACSB Policy

The family must request HACSB approval for the return of any adult family members that HACSB has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this chapter.

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

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

HACSB must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR Part 8.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

#### HACSB Policy

A family's request for a live-in aide must be made in writing. HACSB will verify the need for a live-in aide from a reliable, knowledgeable professional as provided by the family such as a doctor, social worker, or case worker. For continued approval, the family must submit a new, written request—subject to HACSB verification—at each annual reexamination.

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

HACSB has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if:

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

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

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

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

## **PART II: BASIC ELIGIBILITY CRITERIA**

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

#### **Income Limits**

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 eligibility for the LIHTC program is 60% AMI.

TCAC may establish income ceilings lower than 60 percent of the median income for a particular unit or property. These additional restrictions would be outlined in the LIHTC award letter.

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

Income limits are used for eligibility at admission and, then, annually for continued eligibility in mixed-use LIHTC properties, or for one additional income recertification in 100% LIHTC properties. Eligibility is established by comparing a family's annual income with the published LIHTC income limits. To be income-eligible, the annual income of an applicant must be at or below the applicable limit.

### **3-II.B. SOCIAL SECURITY NUMBERS**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. **Note:** These requirements do not apply to noncitizens who do not contend eligible immigration status.





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

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

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

In addition, HACSB will further deny admission based on certain types of current or past behaviors of family members as discussed in this part. HACSB's authority in this area is limited by the Violence against Women Act of 2013 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking.

This part covers the following topics:

- Required denial of admission
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, or stalking
- Notice of eligibility or denial

### **3-III.B. DENIAL OF ADMISSION**

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

HACSB will deny occupancy of a LITCH unit in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity.

HACSB Policy

HACSB will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if HACSB is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by HACSB, or the person who committed the crime is no longer living in the household.

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

HACSB Policy

*Currently engaged in* is defined as any use of illegal drugs during the previous twelve months.

- HACSB 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.

HACSB Policy

In determining reasonable cause, HACSB will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. Although, records of arrest(s) will not be used as the basis for the denial or proof that the applicant engages in disqualify criminal activity. HACSB will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine.
- Any household member is subject to a registration requirement under a state sex offender registration program.

**3-III.C. OTHER REASONS FOR DENIAL OF ADMISSION**

HACSB to deny admission for the reasons discussed in this section.

**Criminal Activity**

HACSB is responsible for screening family behavior and suitability for tenancy. In doing so, HACSB may consider an applicant's history of criminal activity involving crimes of physical

violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

#### HACSB 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 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 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 HACSB 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, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years. A conviction for such activity will be given more weight than an arrest or an eviction.

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

## Previous Behavior

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

### HACSB Policy

HACSB will run credit checks on all family members.

HACSB will deny admission to an applicant family if HACSB 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

Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)

Owes rent or other amounts to HACSB or any PHA or owner in connection with any assisted housing program

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, 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 HACSB personnel

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

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

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

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

### **3-III.D. SCREENING**

#### **Screening for Eligibility**

Obtaining criminal background records assists HACSB in complying with requirements and HACSB policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records HACSB must require every applicant family to submit a consent form signed by each adult household member.

HACSB may not pass along to the applicant the costs of a criminal records check.

##### HACSB Policy

HACSB will perform criminal background checks for all adult household members.

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

HACSB will deny assistance if any household member is subject to any registration requirement under a state sex offender registration program

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

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

##### HACSB Policy

HACSB will consider the family's history with respect to the following factors:

Payment of rent and utilities

Caring for a unit and premises

Respecting the rights of other residents to the peaceful enjoyment of their housing

Criminal activity that is a threat to the health, safety, or property of others

Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C

Compliance with any other essential conditions of tenancy

## Resources Used to Check Applicant Suitability

HACSB has a variety of resources available to them for determination of the suitability of applicants. Generally, HACSB should reject applicants who have recent behavior that would warrant lease termination for a LIHTC resident.

### HACSB Policy

In order to determine the suitability of applicants HACSB will examine applicant history for the past five years. Such background checks will include:

#### *Past Performance in Meeting Financial Obligations, Especially Rent*

HACSB and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether HACSB/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. Landlords will be asked if they would rent to the applicant family again.

If an applicant has no rental payment history HACSB will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide HACSB 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.

If previous landlords or the utility company do not respond to requests from HACSB, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

#### *Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development*

Landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

Home visits may be used to determine the applicant's ability to care for the unit.



### 3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION

#### Evidence

##### HACSB Policy

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

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

#### Consideration of Circumstances

HACSB will consider all relevant circumstances when deciding whether to deny admission based on a family's past history.

In the event HACSB 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, HACSB may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

##### HACSB Policy

HACSB will consider the following factors prior to making its decision:

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

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

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

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

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

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

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

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

HACSB may impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

#### HACSB Policy

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

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

### **Reasonable Accommodation**

If the family includes a person with disabilities, HACSB's decision concerning denial of admission is subject to consideration of reasonable accommodation.

#### HACSB Policy

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

### **3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING**

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit HACSB denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking.

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

#### **Notification**

##### HACSB Policy

HACSB acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under HACSB's policies. Therefore, if HACSB makes a determination to deny admission to an applicant family, HACSB will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-IV.C of this Plan and will request that an applicant wishing to claim this protection notify HACSB within 10 business days.

#### **Documentation**

##### ***Victim Documentation***

##### HACSB Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, or stalking, HACSB will request in writing that the applicant provide documentation supporting the claim in accordance with this Plan.

##### ***Perpetrator Documentation***

##### HACSB Policy

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

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was

successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

**3-III.G. NOTICE OF ELIGIBILITY OR DENIAL**

HACSB will notify an applicant family of its final determination of eligibility in accordance with the policies in Chapter 4.

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

### Person with Disabilities [24 CFR 5.403]

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

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

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

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

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

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

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

of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

### **Individual with Handicaps [24 CFR 8.3]**

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

(1) Physical or mental impairment includes:

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

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

(4) Is regarded as having an impairment means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

- (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment



## Chapter 4

### APPLICATIONS, WAITING LIST AND TENANT SELECTION

#### INTRODUCTION

When a family wishes to reside in a LIHTC unit, the family must submit an application that provides HACSB with the information needed to determine the family's eligibility. HACSB will place all eligible families that apply for the LIHTC units on a waiting list. When a unit becomes available, HACSB will select families from the waiting list in accordance with HACSB policies as stated in this plan.

HACSB must comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of its housing program. Adherence to the selection policies described in this chapter ensures that HACSB will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

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

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

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

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

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



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

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

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

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

Any family that wishes to reside in a LIHTC property must apply for admission to the program.

A two-step process will be used to select families from the waiting list. Under the two-step application process, HACSB 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. 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 apply online at HACSB's website at any time. Once the family has completed their online application, the family will receive an electronic notice of confirmation.

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

HACSB must review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless HACSB determines the family to be ineligible. Where the family is determined to be ineligible, HACSB will notify the family in writing.

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

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

All applicant families will be placed on the waiting list, when open. If HACSB determines from the information provided that a family is ineligible, HACSB will send written notification of the ineligibility determination within 10 business days of receipt of the completed application. The notice will specify the reasons for ineligibility.

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

The online application system provides immediate notification of placement on the waiting list when complete applications are submitted.

Applicants will be placed on the waiting list according to HACSB preference(s) and the date and time their complete application is received by HACSB.

HACSB will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to HACSB standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

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, HACSB will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.



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

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

HACSB has policies regarding the types of waiting lists it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for the LIHTC program, and conducting outreach to ensure a sufficient number of applicants.

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

HACSB's waiting lists must be organized in such a manner to allow HACSB to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

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

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount and source of annual income
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household

HACSB will maintain program based waitlists for its LIHTC units. Waiting list will be maintained for the various target populations to be served at the various properties. (i.e. chronically homeless individuals, seniors, and downtown workforce).

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

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

HACSB is permitted to close its waiting lists, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. HACSB may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit.

#### HACSB Policy

HACSB will close the waiting list when the estimated waiting period for housing applicants on the list reaches 48 months for the most current applicants. Where HACSB has particular preferences or other criteria that require a specific category of family, HACSB may elect to continue to accept applications from these applicants while closing the waiting list to others.

## **Reopening the Waiting List**

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

### HACSB Policy

HACSB will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.

HACSB will give public notice by publishing the relevant information in suitable media outlets.

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

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

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

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

Efforts to inform qualified families about the availability of units under the program may include, as needed, any of the following activities:

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

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

While the family is on the waiting list, the family must immediately inform HACSB of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.



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

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

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

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

The family's response must be in writing and may be delivered in person, by mail, by email or by fax. Responses should be postmarked or received by HACSB not later than 30 calendar days from the date of HACSB letter.

If the family fails to respond within 30 calendar days, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 30 calendar days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

If a family is removed from the waiting list for failure to respond, the Director of Housing Programs, the Housing Management Supervisor or designee may reinstate the family if the lack of response was due to an HACSB error, or to circumstances beyond the family's control.

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

HACSB will remove an applicant from the waiting list upon request by the applicant family.

If HACSB determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because HACSB has determined the family is not eligible for admission, a notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list.



## PART III: TENANT SELECTION

### 4-III.A. SELECTION METHOD

HACSB has general local preferences that are applicable to all waitlist. In addition, there are property specific preferences and selection criteria as well as preferences for targeted populations.

Local preferences applicable to all waitlist are as follows

**(2 points) Displaced Family Preference:** Families that have been displaced from housing within HACSB's jurisdiction due to governmental action or disaster

**(2 points) Residency Preference:** Families who live, work, or who have been hired to work within the South coast region of Santa Barbara County

**(2 points) Rent Burden Preference:** Families not currently receiving any housing assistance (e.g. residing in federal, state, local, or privately subsidized developments, receiving ongoing rental assistance)

Exception: An HACSB Section 8 HCV Voucher holder who has NOT leased-up or is being forced to move through no fault of their own.

**(2 points) Legal Residency:** Family comprised of at least one member who is a legal Resident of the United States

**(1 point) Veteran Preference:** Active members of the United States Armed Forces, Veterans of the United States Armed Forces, or spouses and surviving spouses of U.S. Veterans. Veterans must have a discharge/separation code of anything other than dishonorable discharge

HACSB reserves the right to select families out of this order of priority to the extent permitted by State law as follows:

**Program Facilitation:** A family is being housed to facilitate the operation of the Housing Authority's programs (including the need to move families who are over/under housed in HACSB owned or managed developments where no other suitable units are available) and/or meet the special needs of the client (e.g. families that need to move closer to specific medical or social services and require relocation).

**Unit Matching:** HACSB will select families from the waiting list that match the characteristics of the available unit (unit size, accessibility features, unit type, unit designated AMI). HACSB will offer the unit to the highest ranking applicant who qualifies for that unit's characteristics.

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

##### **Order of Selection**

Families will be selected from the waiting list based on preference. Among applicants with the same preference points, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by HACSB.

When selecting applicants from the waiting list, HACSB will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. HACSB will offer the unit to the highest ranking applicant who qualifies for that unit size, unit type, income limit or that requires the accessibility features.

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

Property/Population specific preferences and selection criteria are found in the exhibits immediately following this chapter.

#### **4-III.C. NOTIFICATION OF SELECTION**

When the family has been selected from the waiting list, HACSB will notify the family by first class mail.

The notice will inform the family of the following:

The notice will inform them of the date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview

Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

If a notification letter is returned to HACSB with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents HACSB from making an eligibility determination.

#### **4-III.D. THE APPLICATION INTERVIEW**

Being invited to attend an interview does not constitute admission to the program or formal offer of a unit.

Families selected from the waiting list are required to participate in an eligibility interview.

All adult household members are required to attend the interview.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, HACSB will proceed with the interview. If HACSB determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, HACSB will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame, the family's application will be cancelled for failing to provide documentation.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English or Spanish. For limited English proficient (LEP) applicants, HACSB will provide translation services in accordance with HACSB's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact HACSB in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview will have their applications cancelled based on the family's failure to supply information needed to determine eligibility. The failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested.

#### **4-III.E. FINAL ELIGIBILITY DETERMINATION**

HACSB must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including suitability standards, HACSB will make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of their eligibility as well as an approximate date of occupancy insofar as that date can be reasonably determined. If unit availability cannot be reasonably determined a notice of eligibility will be sent, and will indicate that the family's name is being put on an eligible list, from which future available units will be offered.

HACSB will promptly notify any family determined to be ineligible for admission on the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity to contest such determination.



## Exhibit A

### Income Limits and Other Occupancy Restrictions By LIHTC Project

***Cottage Gardens***                      ***17 One-Bedroom Senior Housing Units***

All tenants at initial occupancy shall be at or below 60% of area median income.  
The head of household or spouse must be at least 62 years of age or older.

***Garden Court***                              ***97 Studio Senior Housing Units***

All tenants at initial occupancy shall be at or below 40% of area median income.  
All tenants must be at least 62 years of age or older.

***El Carrillo***                                      ***61 Studio Efficiency Housing Units***

At Initial Occupancy:  
7 units shall be occupied by households at or below 30% of AMI.  
7 units shall be occupied by households at or below 35% of AMI.  
47 units shall be occupied by households at or below 40% of AMI.

***Artisan Court***                                      ***55 Studio Housing Units***

17 units shall be occupied by households at or below 30% AMI.  
26 units shall be occupied by households at or below 40% AMI.  
6 units shall be occupied by households at or below 50% AMI.  
6 units shall be occupied by households at or below 60% AMI.

***Bradley Studios***                                      ***53 Studio Housing Units***

16 units shall be occupied by households at or below 30% AMI.  
29 units shall be occupied by households at or below 40% AMI.  
8 units shall be occupied by households at or below 60% AMI.

***Villa Santa Fe I***                                      ***106 One-Bedroom Units***

***Villa Santa Fe II***                                      ***59 One-Bedroom Units***

The median income figures referenced above shall be pursuant to those set and updated annually by the California Tax Credit Allocation Committee.

## Exhibit B

### Admissions Guidelines for the Garden Court on De La Vina 1116 De La Vina – 97 Unit Congregate Care Housing Facility

Recognizing that The Garden Court on De La Vina received Low Income Housing Tax Credits (LIHTC's) under State's "special needs" category, i.e. frail elderly needing supportive housing, and that the Housing Authority actively participated in the project's development so as to establish an improved continuum of care for its senior clients and for other lower income frail seniors in the City of Santa Barbara, the following preference point system (in addition to those set forth in Section II.C hereof) has been established.

#### ***Additional Preference Points***

- 6 Points - Persons who currently reside in housing units owned and/or operated by the Housing Authority of the City of Santa Barbara (HACSB).
- 5 Points- Persons who currently reside in housing units owned and/or operated on the south coast of Santa Barbara County by the Housing Authority of the County of Santa Barbara
- 5 Points - Persons who currently participate in the Section 8 Housing Choice Voucher program within Santa Barbara County. *NOTE: A person or family receiving preference points for residency in a housing unit owned by HACSB or the Housing Authority of the County of Santa Barbara shall NOT be entitled to these additional 5 points should they also be an HACSB Section 8 participant.*
- 4 Points - Applicants who have a referral letter from the County of Santa Barbara's Social Services Department, Health Care Services Department, or similar local social service agency evidencing the applicant's need for the housing and services available at Garden Court.

## Exhibit C

### Admissions Guidelines for El Carrillo

It is the goal of the Housing Authority through El Carrillo to primarily assist low income and disabled homeless persons, as well as individuals at risk of homelessness, residing in Santa Barbara. El Carrillo has been developed as a key component of the community's strategy to move people from homelessness in our community as well as from shelters and other transitional housing situations to permanent, supportive and stable housing. In addition to making needed affordable housing available to this underserved population, residency at El Carrillo shall generally include the provision of needed multidisciplinary services for the residents that support and encourage their ability to maintain permanent housing. For these reasons, the Housing Authority's selection process for occupancy at El Carrillo shall include a detailed review of the applicant's current living situation along with their need for the supportive services that El Carrillo provides.

Residency will be restricted to those applicants demonstrating the following criteria:

*Homeless*

*Do not own, lease or control a vehicle.*

*Single occupancy*

In addition to the above criteria applicants will be selected from the waitlist in one of the following two ways:

Date and Time: 50% of new admissions each year will be selected based on date and time of application and preference points set forth in Section II.C

Referral Based: 50% of new admissions each year will be applicants who are otherwise eligible for admission and who are referred for tenancy by a local homeless service provider or those who have been determined by results of the Vulnerability Index (VI) to be at imminent risk of homelessness or are chronically homeless. Referrals will also be accepted from the Santa Barbara County Department of Behavioral Wellness

El Carrillo residents must also be able to meet suitability criteria identified in Section II. A and II.B.

Applicants for El Carrillo are subject to a suitability assessment that is to be conducted by on-site supportive service provider PathPoint.

## Exhibit D

### Admission Guidelines for Artisan Court

Artisan Court was developed with the specific goal to provide housing to underserved populations in Santa Barbara. For this reason, the Housing Authority will be targeting three specific groups: youth aging out of foster care (transition aged youth or TAY), special needs/disabled and low-income downtown workers. Due to the diverse resident population, special occupancy preferences and admissions guidelines have been established to ensure the targeted populations are given priority for admission to residency at Artisan Court as follows:

***Special Admissions for Transition Aged Youth:*** Up to 15 units of Artisan Court shall be allocated for transition aged youth, defined as youth in transition from state custody or foster care and at risk for homelessness. These applicants will be referred solely by Artisan Court's on-site TAY supportive services provider, Youth and Family Services. TAY applicants will be admitted outside of the regular waiting list process, do not have to qualify for any preferences, and are not required to be on the program waiting list. HACSB will maintain separate records of these admissions. My Home may provide more than one referral for their program at a time. My Home may prioritize referrals based on their discretion.

**Supportive Housing:** The application selection for special needs at Artisan Court is under the Supportive Housing waiting list.

***Special Needs/disabled:*** Up to 26 units shall be designated for special needs individuals. Applicants will be selected from the Supportive Housing waiting list. Preference points are set forth in Chapter 4 Part III. Rental subsidy is available for eligible special needs individuals as follows:

- ***Project-Based Section 8 Assistance (PBA):*** 13 units at Artisan Court shall be selected to receive rental subsidy in the form of PBA. In order to facilitate the operation of the Housing Authority's programs and meet the special needs of certain client groups, the Housing Authority will target applicants from the Supportive Housing waiting list who are concurrently on the Housing Authority's Section 8 waiting list, and who meet all eligibility requirements set forth in Sections II.A and II.B hereof as well as qualify for Section 8 assistance per HUD guidelines.
- **Shelter Plus Care (SPC):** 4 units at Artisan Court shall be selected to receive rental subsidy in the form of Shelter Plus Care assistance. Recipients must be chronically homeless, disabled individuals, referred by a local homeless service provider. SPC applicants are admitted outside of regular waiting list process and do not have to qualify for any preferences. HACSB will maintain separate records of these admissions. Preference will be given to individuals verified to be on the Vulnerability Index.

*Workforce Housing:* Up to 22 units shall be designated for downtown workers as defined in Section II.C.3 herein. Applicants will be selected from the workforce waiting list with downtown workforce preference.

In addition to the preferences and special admissions set forth, persons who do not own, lease or control a vehicle will be given priority for residency at Artisan Court.

## Exhibit E

### Admission Guidelines for Bradley Studios

Bradley Studios was developed with the specific goal to provide housing to underserved populations in Santa Barbara. The Housing Authority will be targeting: special needs/disabled and low-income downtown workers. Special occupancy preferences and admissions guidelines have been established to ensure the targeted populations are given priority for admission to residency at Bradley as follows:

***Special Needs/Disabled:*** Up to 26 units shall be designated for special needs individuals. Applicants will be selected from the Supportive Housing waiting list. Preference points are set forth in Section II.C. Rental subsidy is available for eligible special needs individuals as follows:

- ***Project-Based Section 8 Assistance (PBA):*** 13 units at Bradley Studios shall be selected to receive rental subsidy in the form of PBA. In order to facilitate the operation of the Housing Authority's programs and meet the special needs of certain client groups, the Housing Authority will target applicants from the Supportive Housing waiting list who are concurrently on the Housing Authority's Section 8 waiting list, and who meet all eligibility requirements set forth in Sections II.A and II.B hereof as well as qualify for Section 8 assistance per HUD guidelines.
- ***Shelter Plus Care (SPC):*** 4 units at Bradley Studios shall be selected to receive rental subsidy in the form of Shelter Plus Care assistance. Recipients must be chronically homeless, disabled individuals, referred by a local homeless service provider. SPC applicants are admitted outside of regular waiting list process and do not have to qualify for any preferences. HACSB will maintain separate records of these admissions. Preference will be given to individuals verified to be on the Vulnerability Index.

***Workforce Housing:*** Up to 27 units shall be designated for downtown workers as defined in Section II.C. Applicants will be selected from the workforce waiting list with downtown workforce preference.

***Special Admissions for Transition Aged Youth:*** Up to 10 units at Bradley Studios shall be allocated to graduates of the Artisan Court My Home program. These applicants will be referred by Artisan Court's on-site TAY supportive services provider, YMCA Youth and Family Services.

Bradley Studios offers an in-house subsidy program that assures tenants pay no more than 30% of their gross income as rent or the established \$100 minimum rent, whichever is greater. Rents will be evaluated on a yearly basis at the time of annual reexamination. The Housing Authority will not conduct Interim reexamination appointments unless requested as a result of financial hardship.

This exception applies only to families required to pay the minimum rent, or families whose rent exceeds 60% of their monthly income.

For families required to pay the minimum rent, the minimum rent will be waived as a result of this exception for a period not to exceed 3 consecutive months or any 6 months in a 12 month period.

For families paying more than 60% of their income toward rent, the families rent portion will be recalculated to equal 30% of their gross income. These families will be required to report income changes rent will be adjusted upward.

**Financial Hardship Includes the Following Situations:**

The family would be evicted because it is unable to pay the rent.

Family income has decreased because of changed family circumstances, including the loss employment.

The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program.

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

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following:

1. Implementation of assistance, if approved, or
2. The decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

## Exhibit F

### Admissions Guidelines for Villa Santa Fe

#### Admission Guideline for Villa Santa Fe I and Villa Santa Fe II

It is the goal of the Housing Authority through Villa Santa Fe I and Villa Santa Fe II to assist low income seniors residing in Santa Barbara.

#### **Villa Santa Fe I (Cliff Drive, Santa Fe Place, La Vista Del Oceano)**

Villa Santa Fe I development is 107 unit complex comprised of 106 1 bedroom units with a 2 bedroom manager unit. All 106 units have additional rent subsidy in the form of Federal Project Based Section 8 assistance. To this end applicants are selected for tenancy at the Villa Santa Fe Development in accordance with the waitlist admissions criteria outlined in Housing Authority's Section 8 Administrative Plan. In addition to waitlist ranking of preference points and date and time as outlined in the Administrative Plan Section II. B. Suitability for Admission of this Plan remains applicable.

#### **Villa Santa Fe II (521 N. La Cumbre Rd.)**

Villa Santa Fe II is a 60 unit complex with 1 designated manager unit. Applicants for this property must be 62 years of age or older. Applicants will be selected from the waitlist based on Section II of this policy.



## Exhibit G

### Admissions Guidelines for Cottage Gardens

Applicants will be selected under the workforce waiting list. The head of household must be at least 62 years of age. All applicants must meet the income limit requirement of 60% AMI. Preference will be given to those who do not have a vehicle.

## Chapter 5

### OCCUPANCY STANDARDS AND UNIT OFFERS

#### INTRODUCTION

HACSB has established policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. HACSB's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of this Policy comprise the HACSB's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains HACSB's standards for determining the appropriate unit size for families of different sizes, compositions, and types.

Part II: Unit Offers. This part contains the HACSB's policies for making unit offers, and describes actions to be taken when unit offers are refused.

#### PART I: OCCUPANCY STANDARDS

##### 5-I.A. OVERVIEW

Occupancy standards are established by HACSB to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors HCAB will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

### 5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, HACSB will match characteristics of the family with the type of unit available, for example, number of bedrooms.

Although HACSB does determine the size of unit the family qualifies for under the occupancy standards, HACSB does not determine who shares a bedroom/sleeping room.

HACSB's occupancy standards for determining unit size are applied in a manner consistent with fair housing requirements.

HACSB's occupancy standards are as follows:

HACSB will assign one bedroom for each two persons within the household, except in the following circumstances:

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Single person families will be allocated a zero or one bedroom.

Foster children will be included in determining unit size.

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

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	2
1	1	3
2	2	5
3	3	7
4	4	7
5	6	11
6	8	13

Exceptions to this standards are applicable for occupancy of units at El Carrillo and Garden Court. Maximum Occupancy will be 1 persons per studio unit at each of these developments.

## **5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

### **Types of Exceptions**

HACSB will consider granting exceptions to the occupancy standards at the family's request if HACSB determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests HACSB will consider the size and configuration of the unit. In no case will HACSB grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, HACSB may provide an applicant family with a larger unit than the occupancy standards permit.

### **Processing of Exceptions**

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, HACSB will encourage the resident to make the request in writing using a reasonable accommodation request form. However, HACSB will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

## **PART II: UNIT OFFERS**

### **5-II.A. OVERVIEW**

HACSB will assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, HACSB must offer the dwelling unit to an applicant in the appropriate offer sequence. HACSB will offer the unit until it is accepted. This section describes HACSB's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes HACSB's policies for offering units with accessibility features.

HACSB will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

### **5-II.B. NUMBER OF OFFERS**

HACSB has adopted a "one offer plan" for offering units to applicants. Under this plan the first qualified applicant in sequence on the waiting list will be made one offer of a unit of the appropriate size.

### **5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL**

Applicants must accept or refuse a unit offer within 4 calendar days of the date of the unit offer.

Offers made by telephone will be confirmed by letter.

If an applicant does not contact HACSB to accept or refuse a unit offer within 4 calendar days of the date of the unit offer, HACSB will offer the unit to another applicant/tenant.

If an applicant does not contact HACSB within 10 calendar days of the date of the unit offer, the family will be removed from the waiting list.

### **5-II.D. REFUSALS OF UNIT OFFERS**

#### **Good Cause for Unit Refusal**

Applicants may refuse to accept a unit offer for "good cause." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to HACSB's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

HACSB will require documentation of good cause for unit refusals.

### **Unit Refusal without Good Cause**

When an applicant rejects the final unit offer without good cause, HACSB will remove the applicant's name from the waiting list.

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until HACSB opens the waiting list.

### **5-II.E. ACCESSIBLE UNITS**

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant HACSB must offer such units:

- First, to a current resident of another unit of the same development, or other LIHTC development under HACSB's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, HACSB may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, HACSB will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, HACSB will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

## **INCOME DETERMINATIONS**

### **INTRODUCTION**

A family's annual income is used to determine their income eligibility for the LIHTC program. HACSB will use the policies and methods described in this chapter to ensure that only income-eligible families are offered units in LIHTC developments. This chapter describes regulations that specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and HACSB policies for calculating annual income are found in Chapter 6.





## ANNUAL INCOME

### 6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources is excluded
Foster child or foster adult	Income from all sources is excluded
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

### **Temporarily Absent Family Members**

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

#### HACSB Policy

Generally an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

### ***Absent Students***

#### HACSB Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information

becomes available to HACSB indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

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

#### HACSB Policy

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

### ***Absent Head, Spouse, or Cohead***

#### HACSB Policy

An employed head, spouse, or cohead absent from the unit more than 90 consecutive days due to employment will continue to be considered a family member.

### ***Individuals Confined for Medical Reasons***

#### HACSB Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, HACSB will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent for not more than 180 days. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

### ***Joint Custody of Children***

#### HACSB Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 51 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, HACSB will make the determination based on available documents such as court orders, an IRS income tax return showing

which family has claimed the child for income tax purposes, school records, or other credible documentation.

### **Caretakers for a Child**

#### HACSB Policy

The approval of a caretaker is at HACSB's discretion and subject to HACSB's screening criteria. If neither a parent nor a designated guardian remains in a household, HACSB will take the following actions.

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

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

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

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

## 6-I.C. ANTICIPATING ANNUAL INCOME

HACSB is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

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

HACCB generally will use current circumstances to determine anticipated income for the coming 12-month period. HACSB is authorized to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- HACSB believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

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

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to HACSB to show why the historic pattern does not represent the family’s anticipated income.

### ***Known Changes in Income***

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

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case HACSB would calculate annual income as follows:  
 $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 120 days of the reexamination interview date.

## **6-I.D. EARNED INCOME**

### **Types of Earned Income Included in Annual Income**

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

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

#### HACSB Policy

For persons who regularly receive bonuses or commissions, HACSB will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, HACSB will use the prior year amounts. If a new employee has not yet received any bonuses or commissions, HACSB will count only the amount estimated by the employer. The file will be documented appropriately.

#### ***Some Types of Military Pay***

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

### **Types of Earned Income Not Counted in Annual Income**

#### ***Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]***

This type of income (including gifts) is not included in annual income.

#### HACSB Policy

Sporadic income is income that is not received periodically and cannot be reliably predicted.

#### ***Children's Earnings [24 CFR 5.609(c)(1)]***

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (See Eligibility chapter for a definition of *foster children*.)

#### ***Certain Earned Income of Full-Time Students***

For families residing in a LIHTC unit who are recipients of Section 8 Assistance earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

### ***Income of a Live-in Aide***

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

### ***Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]***

Income from some federal programs is specifically excluded from consideration as income, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

### ***State and Local Employment Training Programs***

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

### ***HUD-Funded Training Programs***

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

#### HACSB Policy

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

## **6-I.E. BUSINESS INCOME [24 CFR 5.609(b)(2)]**

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

### **Business Expenses**

Net income is “gross income less business expense”.

#### HACSB Policy

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

### **Business Expansion**

HUD regulations do not permit HACSB to deduct from gross income expenses for business expansion.

#### HACSB Policy

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



## **Capital Indebtedness**

HUD regulations do not permit HACSB to deduct from gross income the amortization of capital indebtedness.

### HACSB Policy

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means HACSB will allow as a business expense interest, but not principal, paid on capital indebtedness.

## **Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

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

HUD regulations require HACSB to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

### HACSB Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of \$2,000 to help a business get started, HACSB will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

## **Co-owned Businesses**

### HACSB Policy

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

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

### **Overview**

There is no asset limitation for participation in the LIHTC program. However, HUD requires that HACSB include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, HACSB must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and HACSB policies related to each type of asset.

### **General Policies**

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

HACSB generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes HACSB to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) HACSB believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, HACSB can take into consideration past rental income along with the prospects of obtaining a new tenant.

#### HACSB Policy

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

## ***Valuing Assets***

The calculation of asset income sometimes requires HACSB to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

### HACSB Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

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

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

## ***Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]***

When net family assets are \$5,000 or less, HACSB will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, HACSB will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by HUD or HACSB.

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

It may or may not be necessary for HACSB to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

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

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

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

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

#### HACSB Policy

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

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

### ***Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]***

HUD regulations require HACSB to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination.

#### HACSB Policy

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

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

### *Separation or Divorce*

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

#### HACSB Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### *Foreclosure or Bankruptcy*

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

### *Family Declaration*

#### HACSB Policy

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

## **Types of Assets**

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

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

#### HACSB Policy

In determining the value of a savings account or a checking account, HACSB will use the current balance, unless the combined value of the family's assets exceeds \$5,000. In the case that combined family assets exceed \$5,000 the current balance of a savings account will be used and a 6 month average balance will be calculated for a checking account.

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

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

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

#### HACSB Policy

In determining the market value of an investment account, HACSB will use the value of the account based on third party verification or if unobtainable on the most recent investment report.

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

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

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

#### HACSB Policy

In determining the equity, HACSB will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

HACSB will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, HACSB will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

HACSB must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

#### HACSB Policy

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

### **Trusts**

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

#### *Revocable Trusts*

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

#### *Nonrevocable Trusts*

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

### **Retirement Accounts**

#### *Company Retirement/Pension Accounts*

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, HACSB must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.



### *IRA, Keogh, and Similar Retirement Savings Accounts*

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

### ***Personal Property***

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

#### HACSB Policy

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

### ***Life Insurance***

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

## **6-I.G. PERIODIC PAYMENTS**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

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

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income.

### **Treatment of Overpayment Deductions from Social Security Benefits**

HACSB must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. HACSB must determine the length of time (months) the overpayment reduction in benefits is to last and calculate income using the reduced benefit amount after deducting only the amount of the overpayment, withholding from the gross benefit amount for the duration of the over payment.

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

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income.

### HACSB Policy

HACSB will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].  
*Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

#### **6-I.H. PAYMENTS IN LIEU OF EARNINGS**

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

## **6-I.I. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

### ***Covered Families***

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

### ***Imputed Income***

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, HACSB must include in annual income “imputed” welfare income. HACSB must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

### ***Offsets***

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

## **6-I.J. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]**

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

### **Alimony and Child Support**

HACSB must count alimony or child support amounts awarded as part of a divorce or separation agreement.

#### HACSB Policy

HACSB will count court-awarded amounts for alimony and child support unless HACSB verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

### **Regular Contributions or Gifts**

HACSB must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

#### HACSB Policy

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

## 6-I.K. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 12/14/12 that have not been discussed earlier in this chapter include the following:

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 12/14/12]. HUD publishes an updated list of these exclusions periodically. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  - (c) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (e) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
  - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al*
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (-o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (q) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (s) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (t) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249)



- (u) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (v) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

## EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

### 24 CFR 5.609

**(a)** Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

**(b)** Annual income includes, but is not limited to:

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31<sup>1</sup>; and

---

<sup>1</sup> Text of 45 CFR 260.31 follows (next page).

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial

assistance" does not include loan proceeds for the purpose of determining income.

#### HHS DEFINITION OF "ASSISTANCE"

#### 45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

#### 260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurring, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related

services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance

## EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

### 24 CFR 5.609

*(c) Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for HACSB or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of HACSB's governing board. No resident may receive more than one such stipend during the same period of time;

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
--------------------------------------------------------------------------------------------------------------------------------

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

- f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);
- g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);
- h) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);
- i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
- k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

- l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));
- o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
- r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
- s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

This page intentionally left blank



## EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

### **24 CFR 5.603(b) Net Family Assets**

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.



## **Chapter 7**

### **VERIFICATION**

#### **INTRODUCTION**

HACSB must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance.

HACSB will follow the verification guidance as outlined in this chapter.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by HACSB.

#### **PART I: GENERAL VERIFICATION REQUIREMENTS**

##### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION**

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

##### **Consent Forms**

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and provides the family's consent only for the specific purposes listed on the form. Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

##### **Penalties for Failing to Consent**

If any family member who is required to sign a consent form fails to do so, HACSB will deny admission to applicants and terminate the lease of tenants.

## **7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

In order of priority, the forms of verification that HACSB will use are:

- Written Third Party Verification/ Up-front income verification
- Original third party documents
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

### **Requirements for Acceptable Documents**

#### HACSB Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 90 days of the date they are provided to HACSB. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

HACSB staff member who views the original document must make a photocopy of the document for the file.

Any family self-certifications must be made in a format acceptable to HACSB and must be signed in the presence of a HACSB representative or HACSB notary public.

### **File Documentation**

HACSB must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that HACSB has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or auditor to understand the process followed and conclusions reached.

#### HACSB Policy

HACSB will document, in the family file, the following:

- Family composition
- Reported family annual income
- Value of assets
- Other factors influencing the adjusted income

When HACSB is unable to obtain third-party verification, HACSB will document in the family file the reason that third-party verification was not available and retain documenting of attempts made to obtain such information.

### **7-I.C. UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to HACSB's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to HACSB.

There may be legitimate differences between the information provided by the family and UIV-generated information.

#### HACSB Policy

HACSB will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

The Work Number

### **7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

There are two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to HACSB by the family. If written third-party verification is not available, HACSB must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

#### **Written Third-Party Verification**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

HACSB is required to obtain, at minimum, three months current and consecutive pay stubs for determining annual income from wages.

HACSB may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

#### HACSB Policy

Third-party documents provided by the family must be dated within 90 days of HACSB request date.

If HACSB determines that third-party documents provided by the family are not acceptable, HACSB will explain the reason to the family and request additional documentation.

As verification of earned income, HACSB will require the family to provide the three months most current and consecutive pay stubs.

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

When upfront verification is not available and the family is unable to provide written third-party documents, HACSB must request a written third-party verification form.

HACSB will mail, fax, or e-mail third-party written verification form requests to third-party sources.

#### HACSB Policy

HACSB will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by HACSB.

Third-party verification forms will always be sent to verify earned income.

Third-party verifications will always be sent for each reported asset when the total family assets are over \$5,000.

### **Oral Third-Party Verification**

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

HACSB will document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

#### HACSB Policy

In collecting third-party oral verification, HACSB staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification HACSB will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### ***Imputed Assets***

HACSB may accept a self-certification from the family as verification of assets disposed of for less than fair market value.

## **7-I.E. SELF-CERTIFICATION**

Self-certification, or “tenant declaration,” is used as a last resort when HACSB is unable to obtain third-party verification.

When HACSB relies on a tenant declaration for verification of income, assets, or expenses, the family’s file must be documented to explain why third-party verification was not available.

### HACSB Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to HACSB.

HACSB may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to HACSB and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a HACSB representative or HACSB notary public.

**PART II: VERIFYING FAMILY INFORMATION**

**7-II.A. VERIFICATION OF LEGAL IDENTITY**

HACSB Policy

HACSB will require families to furnish verification of legal identity for each household member.

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicle identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
Current U.S. passport	Certified school records
Current employer identification card	

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at HACSB's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to HACSB and be signed in the presence of a HACSB representative or HACSB notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where HACSB has reason to doubt the identity of a person representing him or herself to be a tenant or a member of a tenant family.



## **7-II.B. SOCIAL SECURITY NUMBERS**

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.

HACSB will accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)

- An original SSA-issued document, which contains the name and SSN of the individual

- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

HACSB 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, is illegible, or if the document appears to be forged.

When a resident requests to add a new household member 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. HACSB will not add the new household member until such documentation is provided.

Social security numbers must be verified only once during continued occupancy.

### HACSB Policy

HACSB will verify each disclosed SSN by:

- Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

## **7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members.

### HACSB Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, HACSB will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

## **7-II.D. FAMILY RELATIONSHIPS**

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

### HACSB Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

### **Marriage**

#### HACSB Policy

Certification by the head of household is normally sufficient verification. If HACSB has reasonable doubts about a marital relationship, HACSB will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

### **Separation or Divorce**

#### HACSB Policy

Certification by the head of household is normally sufficient verification. If HACSB has reasonable doubts about a divorce or separation, HACSB will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

## **Absence of Adult Member**

### HACSB Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

## **Foster Children and Foster Adults**

### HACSB Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

## **7-II.E. VERIFICATION OF STUDENT STATUS**

### HACSB Policy

HACSB requires families to provide information about the student status of each family member. Student status of members will be verified to determine if they are considered full-time students as defined by the educational institution. Full time students is anyone who was enrolled full time for any 5 months within a calendar year. Verification of student status will be updated regularly (each semester/quarter) as student status can change and cause a household to become ineligible.

## **7-II.F. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS**

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continued occupancy.

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

HACSB requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

HACSB may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

### HACSB Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless HACSB receives information indicating that an individual's declaration may not be accurate.

## **Eligible Immigrants**

### ***Documents Required***

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S. and the conditions under which eligible immigration status has been granted.

### ***HACSB Verification***

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

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

## **7-II.G. VERIFICATION OF PREFERENCE STATUS**

HACSB must verify any preferences claimed by an applicant that determined his or her placement on the waiting list.

### HACSB Policy

Resident families who are being housed due to program facilitation will be verified through HACSB records.

Displaced Family Preference: Verified through reviewing documents provided from a local government agency.

Residency Preference: Families who live, work, or who have been hired to work within the South coast region of Santa Barbara County. Residence will be verified through a variety of sources such as reviewing utility bills, rental agreements, letters of hire, employer documentation, and referrals from local shelters and social service agencies.

Rent Burden Preference: That families are not currently receiving any housing assistance (e.g. residing in federal, state, local, or privately subsidized developments, receiving ongoing rental assistance) will be verified through review of an existing lease and verification provided through their current owner/landlord. That families are residing in a HACSB locally financed or HACSB managed property have a rent burden exceeding 50% of household gross annual income will be verified through HACSB records.

Veteran Preference: Verified through review of DD-214 or other official documents issued by the U.S. Veterans Administration. Spouses of deceased Veterans must also provide marriage certificate and the death certificate of the Veteran.

Homelessness Preference: Verified through referral or certification from local shelter or service provider agency who has knowledge as to the tenancy history of the client being referred.

Persons Residing in HACSB owned or managed units: Verified through HACSB records.

Persons currently receiving Section 8 HCV subsidy within Santa Barbara County: Verified through written verification from Santa Barbara County Housing Authority or HACSB's own records.

Persons currently residing in units owned or managed by the Housing Authority of the County of Santa Barbara that are located on the south coast of Santa Barbara County

Referral for Garden Court Services: Verified through submission of a completed verification form.

## **PART III: VERIFYING INCOME AND ASSETS**

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides HACSB's policies that supplement the general verification procedures specified in Part I of this chapter.

### **7-III.A. EARNED INCOME**

#### **Tips**

##### HACSB Policy

Unless tip income is included in a family member's W-2 by the employer, or on the third party verification, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

#### **Wages**

##### HACSB Policy

For wages other than tips, the family must provide originals of three months' worth of the most current and consecutive pay stubs.

#### **Cash Payments**

In addition to a third-party verification of employment, 3 months of current consecutive pay-stubs are required at move-in. If the tenant is claiming that they do not receive pay-stubs as they are paid in cash, the IRS has determined that those individuals are considered "independent contractors" and as such should file a 1040 tax return. HACSB will require a copy of the 1040 filing for the tenant and a third party statement from the employer on company letterhead, indicating the name of the tenant, the position title, and how much the employer pays the tenant in cash each week. If the tenant is claiming that he/she does not file tax returns, HACSB will require a copy of completed IRS Form 4506-T indicating the tenant did not file taxes with the IRS in place of the 1040 Return. The statement from the employer will still be required in addition to the 4506-T.

### **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

##### HACSB Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

HACSB will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination HACSB may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, HACSB will accept the family member's certified estimate of income. If the family member has been self-employed for three (3) to twelve (12) months HACSB will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

#### **Social Security/SSI Benefits**

##### HACSB Policy

To verify the SS/SSI benefits of applicants, HACSB will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, HACSB will help the applicant request a benefit verification letter from SSA's Web site at [www.socialsecurity.gov](http://www.socialsecurity.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the original benefit verification letter, it will be required to provide the letter to HACSB.

### 7-III.D. ALIMONY OR CHILD SUPPORT

#### HACSB Policy

The methods HACSB will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 60 days prior to HACSB's request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

**Note:** Families are not required to undertake independent enforcement action.



### **7-III.E. ASSETS AND INCOME FROM ASSETS**

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

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HACSB needs to verify only those certifications that warrant documentation.

##### HACSB Policy

HACSB will verify the value of assets disposed of only if:

HACSB does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

### **7-III.F. NET INCOME FROM RENTAL PROPERTY**

##### HACSB Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, HACSB will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.G. RETIREMENT ACCOUNTS**

#### HACSB Policy

In addition to third party verifications HACSB will accept written third-party documents supplied by the family as supplemental evidence of the status of retirement accounts.



**Exhibit 7-1: Summary of Documentation Requirements for Noncitizens**

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to HACSB.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

**Elderly Noncitizens**

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

**All other Noncitizens**

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - “Admitted as a Refugee Pursuant to Section 207”
  - “Section 208” or “Asylum”
  - “Section 243(h)” or “Deportation stayed by Attorney General”
  - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

- Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*



## Chapter 8

### LEASING AND INSPECTIONS

#### INTRODUCTION

LIHTC leases are the contractual basis of the legal relationship between HACSB and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with Tax Credit regulations.

HACSB will inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, HACSB may conduct additional inspections in accordance with HACSB policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and HACSB's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes HACSB's policies for inspecting dwelling units.

#### PART I: LEASING

##### 8-I.A. OVERVIEW

An eligible family may occupy a tax credit dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of at least 6 months. The lease must be renewed automatically at lease expiration on a month to month basis. Part I of this chapter contains information on HACSB's leasing policies.

## **8-I.B. LEASE ORIENTATION**

### HACSB Policy

After unit acceptance but prior to occupancy, a HACSB representative will conduct a lease orientation with the family. All adult household members are required to attend.

### **Orientation Agenda**

#### HACSB Policy

When families attend the lease orientation, they will be provided with:

- A copy of the lease

- A copy of HACSB's grievance procedure

- A copy of the house rules

- A copy of HACSB's schedule of maintenance charges

Information about the protections afforded by the Violence against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, and stalking

Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges

- Review and explanation of lease provisions

- Unit maintenance requests and work orders

- HACSB's interim reporting requirements

- Review and explanation of occupancy forms

- VAWA protections

### **8-I.C. EXECUTION OF LEASE**

The lease must be executed by the tenant and HACSB, except for automatic renewals of a lease.

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one unit to another.

The lease must state the composition of the household as approved by HACSB (family members and any HACSB-approved live-in aide) .

#### HACSB Policy

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the tax credit lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and HACSB will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to assistance or tenancy. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.



## **8-I.D. MODIFICATIONS TO THE LEASE**

The lease may be modified at any time by written agreement of the tenant and HACSB.

### **Modifications to the Lease Form**

HACSB may modify its lease from time to time. However, HACSB must give residents at least thirty (30) days advance notice of the proposed changes.

A resident's refusal to accept permissible and reasonable lease modifications is grounds for termination of tenancy.

#### HACSB Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with this policy.

### **Other Modifications**

#### HACSB Policy

The lease will be amended to reflect all changes in family composition.

HACSB will provide the family with a lease addendum for family composition changes if the addition or removal of a minor household member. If the new member of the household, or the member of the household being removed is an adult a new lease will be executed. Policies governing when and how changes in family composition must be reported are contained in the Reexaminations Chapter of this policy.

### 8-I.E. SECURITY DEPOSITS

At the option of HACSB, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by HACSB. HACSB may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

#### HACSB Policy

Residents must pay a security deposit to HACSB at the time of admission. The amount of the security deposit will be equal to one month's rent or the following, whichever is higher:

Unit Size	Security Deposit
Garden Court	\$300
El Carrillo	\$300
Artisan Court/Bradley Studios	\$500
1 Bedroom	\$900
2 Bedroom	\$1050
3 bedroom	\$1250
4 Bedroom	\$1400
5 Bedroom	\$1550

However, pursuant to California Civil Code Section 1950.5, should any of these dollar figures exceed an amount or value in excess of an amount equal to two months' rent, then the security deposit shall be limited to no more than two months' rent.

The family may pay the security deposit in full prior to occupancy, or may pay 30% of the security deposit prior to unit occupancy and pay the balance in up to twelve monthly installments.

HACSB will hold the security deposit for the period the family occupies the unit. HACSB will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, HACSB will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

HACSB will provide the resident with a written list of any charges against the security deposit within 21 calendar days of the move-out inspection. If the resident disagrees with the amount charged, the resident has 30 calendar days to dispute the charges and request a meeting with HACSB to discuss the charges.

When a family transfers from one unit to another, HACSB will assess the charges for any maintenance or other charges due for the "old" unit against the tenant's security deposit. Before moving into the new unit, the tenant is required to either pay the new security deposit in full or enter into a promissory note to pay the security deposit for the new unit in accordance with repayment agreements.

Once HACSB determines the balance of the security deposit for the "old" unit that is to be returned to the family, that balance will be applied to the amount due for the security deposit for the new unit, resulting in a decrease of the amount owed under the promissory note.

## **8-I.F. PAYMENTS UNDER THE LEASE**

### **Rent Payments**

Families must pay the amount of the monthly tenant rent determined by HACSB in accordance with LIHTC regulations.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and HACSB must give written notice stating any change in the amount of tenant rent and when the change is effective.

#### HACSB Policy

The tenant rent is due and payable at HACSB-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, HACSB will notify the family of the new amount and the effective date by sending an "Amendment to the Residential Lease" which will become an attachment to the lease.

## **Late Fees and Nonpayment**

At the option of HACSB, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

### HACSB Policy

If the family fails to pay their rent by the fifth day of the month, and HACSB has not agreed to accept payment at a later date, a 3 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid.

## **Maintenance and Damage Charges**

If HACSB charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges.

Schedules of special charges for services and repairs are incorporated in the lease by reference. The schedule is posted on HACSB's website and also available to applicants and tenants on request.

The lease will provide that charges for maintenance and repair beyond normal wear and tear are due and collectible after HACSB gives written notice of the charges. The written notice is considered an adverse action and must identify the specific grounds for the action and inform the family of their right for a hearing under HACSB grievance procedures. HACSB must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed.

### HACSB Policy

When applicable, families will be charged for maintenance and/or damages according to HACSB's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed as needed and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, HACSB may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

The schedule of special charges for services and repairs is publicly posted online at [www.hacsb.org](http://www.hacsb.org).

## **PART II: INSPECTIONS**

### **8-II.A. OVERVIEW**

HACSB will inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, HACSB may require additional inspections, in accordance with this policy. This part contains HACSB's policies governing inspections, notification of unit entry, and inspection results.

### **8-II.B. TYPES OF INSPECTIONS**

#### **Move-In Inspections**

HACSB will inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. The resident will also view the unit prior to lease signing.

#### **Move-Out Inspections**

HACSB must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to HACSB. HACSB must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

#### HACSB Policy

HACSB will conduct a pre-move out inspection when the family gives written notice that they will vacate the unit.

HACSB will also conduct a move-out inspection at the time the resident vacates the unit.

When applicable, HACSB will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 21 calendar days of conducting the move-out inspection.

#### **Annual Inspections**

HACSB is required to inspect all occupied units annually.

## **Special Inspections**

### HACSB Policy

PHA staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

## **Other Inspections**

### HACSB Policy

Building exteriors, grounds, common areas and systems will be inspected according to HACSB's maintenance plan.

## **8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS**

### **Notice of Entry**

#### ***Non-emergency Entries***

HACSB may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of HACSB entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

#### HACSB Policy

HACSB will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

HACSB will request permission to enter the unit to repair items when the family requests repairs. If the family does not grant permission to enter the unit, then an adult member must be present in order for HACSB to enter the unit and make repairs.

If no family member is present at the scheduled time for unit entry, HACSB will charge the family for staff time.

#### ***Emergency Entries***

HACSB may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, HACSB must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

### **Scheduling of Inspections**

#### HACSB Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify HACSB at least 24 hours prior to the scheduled inspection. HACSB will reschedule the inspection no more than once without a charge unless the resident has a verifiable good cause to delay the inspection. HACSB may request verification of such cause.

### **Attendance at Inspections**

Residents are not required to be present for inspections.

#### HACSB Policy

HACSB requires residents to be present for an initial inspection 90-days after move in. Other than at this inspection the resident is not required to be present for inspections. The resident may attend the inspection if he or she wishes. If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection



report in the unit. Failure to allow HACSB into the unit to conduct inspection is a violation of the lease and grounds for termination.

## **8-II.D. INSPECTION RESULTS**

HACSB is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units.

### **Emergency Repairs**

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify HACSB of the damage, and HACSB must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, HACSB must charge the family for the reasonable cost of repairs. HACSB may also take lease enforcement action against the family.

If HACSB cannot make repairs quickly, HACSB must offer the family standard alternative accommodations. If HACSB can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

### HACSB Policy

When conditions in the unit are hazardous to life, health, or safety, HACSB will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke or carbon monoxide detectors

## **Non-emergency Repairs**

### HACSB Policy

HACSB will correct non-life threatening health and safety defects within 15 business days of the inspection date. If HACSB is unable to make repairs within that period due to circumstances beyond HACSB's control (e.g. required parts or services are not available, weather conditions, etc.) HACSB will notify the family of an estimated date of completion.

The family must allow HACSB access to the unit to make repairs.

## **Resident-Caused Damages**

### HACSB Policy

Damages to the unit beyond wear and tear will be billed to the tenant.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

## ***Housekeeping***

### HACSB Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, HACSB will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector or carbon monoxide detector. Only one warning will be given. A second incidence will result in lease termination.



## Chapter 9

### REEXAMINATIONS

#### INTRODUCTION

HACSB is required to reexamine each family's income and composition annually. HACSB has also adopted policies for conducting interim reexaminations.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year.

Part II: Interim Reexaminations. This part includes requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part III: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, HACSB must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.



## **PART I: ANNUAL REEXAMINATIONS**

### **9-I.A. OVERVIEW**

HACSB must conduct a reexamination of income and family composition at least annually. To assure that tenancy in the housing units is targeted to families meeting the eligibility requirements for continued occupancy that such families are charged appropriate rents, and for compliance with LIHTC Occupancy Rules, the eligibility status and the Family Income of each tenant household is to be reexamined and re-determined at least annually.

HACSB is required to obtain all of the information necessary to conduct reexaminations. Families are required to provide current and accurate information on income, assets, and family composition as part of the reexamination process.

This part contains HACSB's policies for conducting annual reexaminations.

### **9-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

HACSB must establish a policy to ensure that the annual reexamination for each family is completed within a 12 month period.

#### HACSB Policy

Generally, HACSB will schedule annual reexaminations to coincide with the family's anniversary date. HACSB will begin the annual reexamination process approximately 90 days in advance of the scheduled effective date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial certification (admission).

If the family transfers to a new unit, HACSB will perform a new annual reexamination, and the anniversary date will be changed.

HACSB may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

## **Notification of and Participation in the Annual Reexamination Process**

HACSB is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of HACSB.

### HACSB Policy

All household adults as well as approved Live-In aides are required to attend the annual reexamination interview together. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact HACSB to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact HACSB in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview HACSB will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HACSB approval, the family will be in violation of their lease and may be terminated in accordance with the policies in this policy.

An advocate, interpreter, or other assistant may assist the family in the interview process.



### **9-I.C. CONDUCTING ANNUAL REEXAMINATIONS**

The terms of the LIHTC lease require the family to furnish information regarding income, assets and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit.

#### HACSB Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a HACSB-designated reexamination form/recertification packet, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, assets, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 30 calendar days of the interview, or as requested by HACSB. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 11.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

#### **Change in Unit Size**

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. HACSB may use the results of the annual reexamination to require the family to move to an appropriate size unit.

## **Criminal Background Checks**

Information obtained through criminal background checks may be used for lease enforcement and eviction.

### HACSB Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

#### **9-I.D. EFFECTIVE DATES**

As part of the annual reexamination process, HACSB must make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

##### HACSB Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

## **PART II: INTERIM REEXAMINATIONS**

### **9-II.A. OVERVIEW**

Family circumstances may change during the period between annual reexaminations. HACSB policies define the types of information about changes in family circumstances that must be reported, and under what circumstances HACSB must process interim reexaminations to reflect those changes.

### **9-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

HACSB must adopt policies prescribing when and under what conditions the family must report changes in family composition.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards.

#### HACSB Policy

All families must report all changes in family and household composition that occur between annual reexaminations.

HACSB will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

#### **New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HACSB approval. However, the family is required to promptly notify HACSB of the addition.

#### HACSB Policy

The family must inform HACSB of the birth, adoption, or court-awarded custody of a child within 30 calendar days.

## **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request HACSB approval to add a new family or other household member (live-in aide or foster child).

HACSB may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which HACSB consent will be given or denied. Under such policies, the factors considered by HACSB may include:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- HACSB's obligation to make reasonable accommodation for persons with disabilities.

### HACSB Policy

Families must request HACSB approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by HACSB prior to the individual moving into the unit.

HACSB will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation that should be considered by HACSB. Exceptions will be made on a case-by-case basis.

HACSB will not approve the addition of a new family or household member unless the individual meets HACSB's eligibility criteria and documentation requirements.

If HACSB determines that an individual does not meet HACSB's eligibility criteria or documentation requirements, HACSB will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

## **Departure of a Family or Household Member**

### HACSB Policy

If a family member ceases to reside in the unit, the family must inform HACSB immediately and no later than 30 calendar days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform HACSB immediately and no later than 30 calendar days.

## **9-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because HACSB has reason to believe that changes in income may have occurred, or because the family reports a change. When a family reports a change, HACSB may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

### HACSB Policy

This section only applies to families paying income-based rent, i.e. households residing in LIHTC units while receiving Section 8 Housing Choice Voucher subsidy. Families paying flat rent are not required to report changes in income or expenses.

### **HACSB-initiated Interim Reexaminations**

HACSB-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by HACSB. They are not scheduled because of changes reported by the family.

### HACSB Policy

HACSB will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), HACSB will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income or that they receive less than \$2,400 annual income (gross income after exclusions), HACSB will conduct an interim reexamination every 4 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), HACSB will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

HACSB may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

### **Family-Initiated Interim Reexaminations**

HACSB must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

### ***Required Reporting***

HUD regulations give HACSB the discretion to determine the circumstances under which families will be required to report changes affecting income.

### HACSB Policy

Families are required to report all increases in income within 30 calendar days of the date the change takes effect.

HACSB will conduct interim reexaminations for families that experience an increase in annual income of \$2,400 or more. When a family experiences an increase in annual income of less than \$2,400, HACSB will note the file but will not conduct an interim reexamination.

HACSB will conduct an interim for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, HACSB will note the information in the tenant file, but will not conduct an interim reexamination.

### ***Optional Reporting***

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. HACSB must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

### HACSB Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, HACSB will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, HACSB will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

## 9-II.D. PROCESSING THE INTERIM REEXAMINATION

### Method of Reporting

#### HACSB Policy

The family may notify HACSB of changes only in writing. If the family provides oral notice, HACSB will require the family to submit the changes in writing.

Generally, the family will be required to attend an interview for an interim reexamination.

Based on the type of change reported, HACSB will determine the documentation the family will be required to submit. The family must submit any required information or documents within 30 calendar days or as requested by HACSB. This time frame may be extended for good cause with PHA approval. HACSB will accept required documentation by mail, by fax, or in person.

### Effective Dates

HACSB must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

#### HACSB Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported, all required documentation was submitted, and the change was verified.





## **PART IV: RECALCULATING TENANT RENT**

### **9-III.A. OVERVIEW**

For those families paying income-based rent, HACSB must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### **9-III.B. CHANGES IN UTILITY ALLOWANCES**

The tenant rent calculations must reflect any changes in HACSB's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

#### HACSB Policy

Unless HACSB is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

### **9-III.C. NOTIFICATION OF NEW TENANT RENT**

The public housing lease requires HACSB to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When HACSB re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of HACSB's schedule of Utility Allowances for families in HACSB's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, HACSB must notify the tenant that the tenant may ask for an explanation stating the specific grounds of HACSB determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under HACSB's grievance procedure [24 CFR 966.4(c)(4)].

#### HACSB Policy

The notice to the family will include the effective date of the change and the revised tenant rent.

#### **9-III.D. DISCREPANCIES**

During an annual or interim reexamination, HACSB may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, HACSB may discover errors made by HACSB. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with this ACOP.

## Chapter 10

### PETS

#### INTRODUCTION

This chapter explains HACSB's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of HACSB to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of HACSB.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.



## PART I: ASSISTANCE ANIMALS

### 10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that assist, support, or provide service to a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to HACSB's pet policies described in Parts II through IV of this chapter.

## **10-I.B. APPROVAL OF ASSISTANCE ANIMALS**

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal.

HACSB may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability.

HACSB's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

HACSB has the authority to regulate assistance animals under applicable federal, state, and local law.

### HACSB Policy

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and HACSB approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

## **10-I.C. CARE AND HANDLING**

### HACSB Policy

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, HACSB will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If HACSB determines that no such accommodation can be made, HACSB may withdraw the approval of a particular assistance animal.





## **PART II: PET POLICIES FOR ALL DEVELOPMENTS**

### **10-II.A. OVERVIEW**

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

### **10-II.B. MANAGEMENT APPROVAL OF PETS**

#### **Registration of Pets**

HACSB requires registration of a pet with HACSB.

#### HACSB Policy

Pets must be registered with HACSB before they are brought onto the premises.

Registration includes providing HACSB with a picture of the pet and documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date. A pet deposit will also be required.

Pets will not be approved to reside in a unit until completion of the registration requirements.

## **Refusal to Register Pets**

### HACSB Policy

HACSB will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C.

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

HACSB reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior or the resident's failure to care for the unit may be considered as factors in determining the pet owner's ability to comply with provisions of the lease.

If HACSB refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of HACSB's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with HACSB's grievance procedures.

## **Pet Agreement**

### HACSB Policy

Residents who have been approved to have a pet must enter into a pet agreement with HACSB, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of HACSB's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with HACSB's pet policy and applicable house rules may result in the withdrawal of HACSB approval of the pet or termination of tenancy.

## 10-II.C. STANDARDS FOR PETS

HACSB has established reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that HACSB classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

### Definition of “Common Household Pet”

There is no regulatory definition of common household pet for housing programs.

#### HACSB Policy

*Common household pet* means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

Reptiles

Rodents other than guinea pigs, gerbils, and hamsters

Insects

Arachnids

Wild animals or feral animals

Pot-bellied pigs

Animals used for commercial breeding

## **Pet Restrictions**

### HACSB Policy

The following animals are not permitted:

Dogs of these breeds or any mix of these breeds: Pit Bull, Rottweiler, Doberman, Chow, Great Dane, St. Bernard, working dogs of Swiss Alp origin, and Mastiffs

Ferrets or other animals whose natural protective mechanisms pose a risk of serious bites or lacerations to small children

Any animal not permitted under state or local law or code

Farm animals, including any type of pig

Arachnids or other insects

Weight restrictions for dogs will apply as follows:

Studio units- 25 lbs

1 bedroom units – 50 lbs

2 and 3 bedroom units – 75 lbs

4 and 5 bedroom units – 100 lbs

Due to the size of the units El Carrillo Studios is designated a no pet property.

HACSB may approve larger dogs if deemed appropriate for the dwelling unit.

## **Number of Pets**

### HACSB Policy

Residents may own a maximum of one pet

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as one pet.

## **Other Requirements**

### HACSB Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

## **10-II.D. PET RULES**

Pet owners must maintain pets responsibly, in accordance with HACSB policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations.

### **Pet Area Restrictions**

#### HACSH Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

### **Designated Pet/No-Pet Areas**

HACSB may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

HACSB may direct initial tenant moves as may be necessary to establish pet and no-pet areas. HACSB may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. HACSB may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

#### HACSB Policy

With the exception of common areas as described in the previous policy, HACSB has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, HACSB has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

## **Cleanliness**

### HACSB Policy

The pet owner shall be responsible for the removal of pet waste by placing it in a sealed plastic bag and disposing of it in a container provided by HACSB.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes in a sealed plastic bag and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

## **Alterations to Unit**

### HACSB Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

## **Noise**

### HACSB Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

## **Pet Care**

### HACSB Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage HACSB property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

## **Responsible Parties**

### HACSB Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify HACSB and sign a statement that they agree to abide by all of the pet rules.

## **Pets Temporarily on the Premises**

### HACSB Policy

Pets that are not owned by a tenant are not allowed to stay in the unit. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by HACSB.

## **Pet Rule Violations**

### HACSB Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy



## **Notice for Pet Removal**

### HACSB Policy

If the pet owner and HACSB are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by HACSB, HACSB may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for HACSB's determination of the pet rule that has been violated

- The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice

- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

## **Pet Removal**

### HACSB Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if HACSB after reasonable efforts cannot contact the responsible party, HACSB may contact the appropriate state or local agency and request the removal of the pet.

## **Termination of Tenancy**

### HACSB Policy

HACSB may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

## **Emergencies**

### HACSB Policy

HACSB will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for HACSB to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.



## **PART III: PET DEPOSITS AND FEES**

### **10-III.A. OVERVIEW**

This part describes HACSB's policies for pet deposits and fees in LIHTC developments.

### **10-III.B. PET DEPOSITS**

#### **Payment of Deposit**

HACSB requires tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants.

The pet deposit is not part of the rent payable by the resident.

#### HACSB Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is \$300.00, and must be either paid in full before the pet is brought on the premises or paid through installments of a minimum of \$25.00 per month.

#### **Refund of Deposit**

HACSB may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. HACSB must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

#### HACSB Policy

HACSB will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 21 calendar days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

HACSB will provide the resident with a written list of any charges against the pet deposit within 21 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the resident has 30 days to contact HACSB and request a meeting to discuss the charges.

### **10-III.C. OTHER CHARGES**

#### **Pet-Related Damages During Occupancy**

##### HACSB Policy

All reasonable expenses incurred by HACSB as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit

- Fumigation of the dwelling unit

- Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with established Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

#### **Pet Waste Removal Charge**

The regulations do not address HACSB's ability to impose charges for house pet rule violations. However, charges for violation of HACSB pet rules may be treated like charges for other violations of the lease and HACSB tenancy rules.

##### HACSB Policy

A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, HACSB may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.



## **Chapter 11**

### **LEASE TERMINATIONS**

#### **INTRODUCTION**

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. HACSB has the authority to terminate the lease because of the family's failure to comply with regulations, for serious or repeated violations of the terms of the lease, and for other good cause.

When determining policy on terminations of the lease, HACSB must consider state and local landlord-tenant laws. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern voluntary termination of the lease by the family and the termination of the lease by HACSB.

## **PART I: TERMINATION BY TENANT**

### **11-I.A. TENANT CHOOSES TO TERMINATE THE LEASE**

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or HACSB central office or sent by pre-paid first-class mail, properly addressed.

#### HACSB Policy

If a family desires to move and terminate their tenancy with HACSB, they must give at least 30 calendar days advance written notice to HACSB of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control HACSB, at its discretion, may waive the 30 day requirement.

The notice of lease termination must be signed by the head of household, spouse, or cohead.





## **PART II: TERMINATION BY HACSB**

### **11-II.A. OVERVIEW**

Termination of the lease is permissible by HACSB for good cause. HACSB may not terminate the tenancy, the lease or rental agreement of a LIHTC tenant except for good cause, including a serious or repeated violation of the material terms and conditions of the Lease, or a violation of applicable Federal, State, or local law. To terminate the tenancy HACSB must provide written notice to the tenant of the grounds with sufficient specificity to enable the tenant to prepare a defense. The notice must be served at least three days before the termination of tenancy, and must comply with all requirements of California law and other applicable programs.

### **11-II.B. FAILURE TO ACCEPT HACSB'S OFFER OF A LEASE REVISION**

HACSB must terminate the lease if the family fails to accept HACSB's offer of a lease revision to an existing lease, provided HACSB has done the following:

- HACSB has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- HACSB has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to HACSB policies for offering lease revisions.

### **11-II.C. METHAMPHETAMINE CONVICTION**

HACSB must immediately terminate the lease if HACSB determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

#### HACSB Policy

HACSB will terminate the lease if HACSB determines that any household member has ever been convicted of the manufacture or production of methamphetamine on any premises, whether federally-assisted or not.

### **11-II.D. LIFETIME REGISTERED SEX OFFENDERS**

HACSB will terminate a lease if HACSB determines that any household member is subject to any sex offender registration requirement.

### **11-II.E. DEATH OF A SOLE FAMILY MEMBER**

HACSB must immediately terminate tenancy for deceased single member households.

### **11-II.F. LEASE PROVISIONS**

This section addresses provisions for lease termination that will be included in the lease agreement.

#### ***Definitions***

The following definitions will be used for this and other parts of this chapter:

*Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

*Dating violence* is defined in section 13-VII.B.

*Domestic violence* is defined in section 13-VII.B.

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

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

*Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

*Household* means the family and approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit.

*Immediate family member* is defined in section 13-VII.B.

*Other person under the tenant's control* means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an

invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

*Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

*Stalking* is defined in section 13-VII.B.

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

### **Drug Crime On or Off the Premises**

The lease provides that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

#### HACSB Policy

HACSB will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

HACSB will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

In making its decision to terminate the lease, HACSB will consider alternatives to termination. Upon consideration of such alternatives and factors, HACSB may, on a case-by-case basis, choose not to terminate the lease.

### **Illegal Use of a Drug**

The lease will provide that HACSB may evict a family when HACSB determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

#### HACSB Policy

HACSB will terminate the lease when HACSB determines that a household member is illegally using a drug or HACSB determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous twelve months.

HACSB will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, HACSB will consider alternatives to lease termination. Upon consideration of such alternatives and factors, HACSB may, on a case-by-case basis, choose not to terminate the lease.

### **Threat to Other Residents**

The lease will provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including HACSB management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

#### HACSB Policy

HACSB will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including HACSB management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

*Immediate vicinity* means within a three-block radius of the premises.

HACSB will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

### **Alcohol Abuse**

HACSB will establish standards that allow for the termination of tenancy if HACSB determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

#### HACSB Policy

HACSB will terminate the lease if HACSB determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous twelve months.

HACSB will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

### **Other Serious or Repeated Violations of Material Terms of the Lease**

HACSB will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent;

Repeated late payment of rent or other charges. Four late payments within a 12 month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by HACSB for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, HACSB will consider alternatives as to termination. Upon consideration of such alternatives and factors, HACSB may, on a case-by-case basis, choose not to terminate the lease.

### **Other Good Cause**

HACSB may terminate tenancy for other good cause. The Violence against Women Act of 2013 explicitly prohibits HACSB from considering incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault as "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence.

#### HACSB Policy

HACSB will terminate the lease for the following reasons.

*Fugitive Felon or Parole Violator.* If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

*Persons subject to sex offender registration requirement.* If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery of facts after admission to the program that would have made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income

Failure to furnish such information and certifications regarding family composition, income and assets as may be necessary for HACSB to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by HACSB that such a dwelling unit is available

Failure to permit access to the unit by HACSB after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements

or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform HACSB of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 30 calendar days of the event.

Failure to abide by the provisions of HACSB pet policy

If the family has breached the terms of a repayment agreement entered into with HACSB

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward HACSB personnel, including agents or contractors of HACSB

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

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

In making its decision to terminate the lease, HACSB will consider alternatives to lease termination. Upon consideration of such alternatives and factors, HACSB may, on a case-by-case basis, choose not to terminate the lease.

### ***Family Absence from Unit***

It is reasonable that the family may be absent from the LIHTC unit for brief periods. However, HACSB needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

#### HACSB Policy

The family must supply any information or certification requested by HACSB to verify that the family is living in the unit, or relating to family absence from the unit, including any HACSB-requested information or certification on the purposes of family absences. The family must cooperate with HACSB for this purpose.

The family must promptly notify HACSB when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the unit for more than 90 consecutive days, and the family does not adequately verify that they are living in the unit, HACSB will terminate the lease for other good cause.

*Abandonment of the unit.* If the family appears to have vacated the unit without giving proper notice, HACSB will follow state and local landlord-tenant law pertaining to



abandonment before taking possession of the unit. If necessary, HACSB will secure the unit immediately to prevent vandalism and other criminal activity.

## **11-II.G. ALTERNATIVES TO TERMINATION OF TENANCY**

### **Exclusion of Culpable Household Member**

As an alternative to termination of the lease for criminal activity or alcohol abuse HACSB may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with PHA policy.

#### HACSB Policy

HACSB will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon HACSB's request.

### **Repayment of Family Debts**

#### HACSB Policy

If a family owes amounts to HACSB, as a condition of continued occupancy, HACSB will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from HACSB of the amount owed.

## 11-II.H. CRITERIA FOR DECIDING TO TERMINATE TENANCY

Even though HACSB may have grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and HACSB may consider all of the circumstances relevant to a particular case before making a decision.

### **Evidence**

For criminal activity, HACSB will terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

#### HACSB Policy

HACSB will use the preponderance of the evidence as the standard for making all termination decisions.

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

## **Consideration of Circumstances**

HACSB may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

### HACSB Policy

HACSB will consider the following factors before deciding whether to terminate the lease:

The seriousness of the offending action, especially with respect to how it would affect other residents

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or a victim of domestic violence, dating violence, stalking or sexual assault.

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of HACSB's failure to terminate the tenancy

The effect of HACSB's decision on the integrity of the LIHTC program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

### **Consideration of Rehabilitation**

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, HACSB will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose HACSB will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

### **Reasonable Accommodation**

If the family includes a person with disabilities, HACSB's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

#### HACSB Policy

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

### **Nondiscrimination Limitation**

HACSB's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

## **11-II.I. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT**

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2013 (VAWA) provides for LIHTC residents who are victims of domestic violence, dating violence, stalking, or sexual assault. For general VAWA requirements and HACSB policies pertaining to notification, documentation, and confidentiality, see section 13-VII of this ACOP, where definitions of key VAWA terms are also located.

### **VAWA Protections against Termination**

VAWA provides four specific protections against termination of assistance for victims of domestic violence, dating violence, sexual assault, or stalking.

First, VAWA provides that HACSB may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to HACSB, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit.

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives HACSB the authority to terminate the tenancy of any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

### **Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]**

VAWA does not limit the authority of HACSB to terminate the tenancy of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, or stalking so long as HACSB does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of HACSB to terminate the tenancy of a victim of domestic violence, dating violence, sexual assault or stalking if HACSB can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the tenancy of the victim is not terminated [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

#### HACSB Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, HACSB will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within a short period of time

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

## **Documentation of Abuse [24 CFR 5.2007]**

### HACSB Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, HACSB will request that the individual provide documentation supporting the claim in accordance with the policies in section 13-IX.D of this plan.

HACSB reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases HACSB will document the waiver in the individual's file.

## **Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of tenancy for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives HACSB the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if HACSB chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that HACSB must follow the same rules when terminating the tenancy to an individual as it would when terminating the tenancy of an entire family.

### HACSB Policy

HACSB will bifurcate a family's lease and terminate the tenancy of a family member if HACSB determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members.

In making its decision, HACSB will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to HACSB by the victim in accordance with this section and section 13-VII.D.

If HACSB does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, HACSB will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, HACSB may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

### **11-III.A. LEASE TERMINATION NOTICE**

#### **Form, Delivery, and Content of the Notice**

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, and the resident's right to reply to the termination notice.

When HACSB is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with HACSB's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

#### HACSB Policy

HACSB will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include information about the protection against termination provided by the Violence against Women Act of 2013 (VAWA) for victims of domestic violence, dating violence, stalking, or sexual assault (see chapter 13). Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, stalking, or sexual assault of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in this ACOP.



## Timing of the Notice

HACSB must give written notice of lease termination of:

- 3 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

If the health or safety of other residents, HACSB employees, or persons residing in the immediate vicinity of the premises is threatened

If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

If any member of the household has been convicted of a felony

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

### HACSB Policy

HACSB will give written notice of 3 calendar days for nonpayment of rent.

If the lease termination is because health or safety of other residents, HACSB employees, or persons residing in the immediate vicinity of the premises is threatened, or because a member of the household has engaged in any drug-related criminal activity or violent criminal activity, HACSB will give written notice of 3 calendar days.

For all other lease terminations HACSB will give 30 days' written notice.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

## 11-III.B. EVICTION

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. HACSB may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

### HACSB Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, HACSB will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, HACSB will seek the assistance of the court to remove the family from the premises as per state and local law.

### **11-III.C. RECORD KEEPING**

A written record of every termination and/or eviction will be maintained by HACSB at, and will contain the following information:

Name of resident, number and identification of unit occupied

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail

Date and method of notifying the resident

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

## Chapter 12

### GRIEVANCES AND APPEALS

#### INTRODUCTION

This chapter discusses grievances and appeals pertaining to HACSB actions or failures to act that adversely affect LIHTC housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for LIHTC Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part III: Grievance Procedures for LIHTC Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not HACSB's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

#### PART I: INFORMAL HEARINGS FOR LIHTC HOUSING APPLICANTS

##### 12-I.A. OVERVIEW

When HACSB makes a decision that has a negative impact on an applicant family, HACSB will allow the family to appeal the decision. For applicants, the appeal takes the form of an informal hearing.

##### 12-I.B. INFORMAL HEARING PROCESS

Informal hearings are provided for LIHTC housing applicants. An applicant is someone who has applied for admission to the LIHTC housing program, but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project.

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

##### Notice of Denial

HACSB will give an applicant prompt notice of a decision denying eligibility for tenancy. The notice will contain a brief statement of the reasons for the decision, and must also state that the applicant may request an informal hearing to dispute the decision.

### **Scheduling an Informal Hearing**

A request for an informal hearing must be made in writing and delivered to HACSB either in person, by email, fax or by first class mail, by the close of the business day, no later than 10 business days from the date of the HACSB's notification of denial of admission.

HACSB will schedule and send written notice of the informal hearing within 10 business days of the family's request.

### **Conducting an Informal Hearing**

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of HACSB.

The person conducting the informal hearing will make a determination as to uphold or overturn eligibility. HACSB ultimately is responsible for making the final decision as to whether admission should be granted or denied.

### **Informal Hearing Decision**

HACSB will notify the applicant of HACSB's final decision, including a brief statement of the reasons for the final decision.

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

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

### **Reasonable Accommodation for Persons with Disabilities**

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and HACSB must consider such accommodations. HACSB must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

## PART II: GRIEVANCE PROCEDURES FOR LIHTC RESIDENTS

### 12-II.A. REQUIREMENTS

HACSB must offer a grievance procedure prior to filing an eviction action for property damage against a LIHTC tenant.

HACSB grievance procedure will be incorporated by reference in the tenant lease.

### 12-II.B. DEFINITIONS

The following terms are used with regard to grievance procedures:

- **Grievance** – a dispute which a tenant may have with respect to an HACSB action.
- **Complainant** – any tenant whose grievance is presented to HACSB or at the project management office
- **Hearing Officer/Panel** – a person/panel selected in accordance with the grievance Procedure to hear grievances and render a decision with respect thereto
- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with HACSB as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit

### Request for Hearing

Upon receiving a notice of eviction based upon property damage, Complainant may submit a written request for a hearing to HACSB's Central Office within seven (7) days after receipt of the notice. The written request shall state that reasonable good cause does not exist for proceeding with the eviction.

### Scheduling of Hearings

If the complainant has complied with all requirements for requesting a hearing, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and HACSB. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate HACSB official.

### **12-II.C. SELECTION OF HEARING OFFICER/PANEL**

The grievance hearing must be conducted by an impartial person or persons appointed by HACSB, other than the person who made or approved the HACSB action under review, or a subordinate of such person.

HACSB will designate knowledgeable, professionals that may be HACSB employees (other than the person who made or approved the decision or a subordinate of the person who made or approved the decision), or other qualified private individuals.

HACSB must determine the methodology for appointment of the hearing officer and it must be stated in the grievance procedure.

HACSB will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person has no conflicting relationship with the complainant, that they do not have a personal stake in the matter under dispute, and will otherwise not lack impartiality.

### **12-II.D. PROCEDURES GOVERNING THE HEARING**

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any HACSB documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If HACSB does not make the document available for examination upon request by the complainant, HACSB may not rely on such document at the grievance hearing.

The tenant will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

#### HACSB Policy

Hearings may be attended by the following applicable persons:

An HACSB representative(s) and any witnesses for HACSB

The tenant and any witnesses for the tenant

The tenant's counsel or other representative

Any other person approved by HACSB as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by HACSB or project management, and to confront and cross-

examine all witnesses upon whose testimony or information HACSB or project management relies.

- A decision based solely and exclusively upon the facts presented at the hearing.

### **Decision without Hearing**

The hearing officer/panel may render a decision without proceeding with the hearing if the hearing officer/panel determines that the issue has been previously decided in another proceeding.

### **Failure to Appear**

If the complainant or HACSB fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and HACSB must be notified of the determination by the hearing officer/panel. A determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest HACSB's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

#### HACSB Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the tenant. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, HACSB may request documentation of the "good cause" prior to rescheduling the hearing.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact HACSB within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

A hearing will only be rescheduled for good cause twice. Should the tenant fail to appear at the scheduled time for the second rescheduled hearing, HACSB's action will stand.



## Chapter 13

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of PHA-furnished utilities.

Part II: Repayment of Family Debts.

, and describes the circumstances under which HACSB will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part III: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies HACSB will follow.

Part IV: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.



## **PART I: SETTING UTILITY ALLOWANCES**

### **13-I.A. OVERVIEW**

HACSB will utilize the Utility Allowance Scheduled established for HACSB's Section 8 Program for is LIHTC developments.

### **13-I.B UTILITY ALLOWANCES**

HASCB is required to establish separate allowances for each utility and for each category of dwelling unit that HACSB determines to be reasonably comparable as to factors affecting utility usage.

The objective of HACSB in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit.

Costs for telephone, cable/satellite TV, and internet services are not considered utilities.

## **PART II: FAMILY DEBTS TO HACSB**

### **13-III.A. OVERVIEW**

This part describes HACSB's policies for recovery of monies owed to HACSB by families.

HACSB will enter into repayment agreements in accordance with the policies contained in this part as a means to recover a balance due.

When a family refuses to repay monies owed to HACSB, HACSB will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

### **13-II.B. REPAYMENT POLICY**

#### **Family Debts to HACSB**

Any amount owed to HACSB by a LIHTC family must be repaid. If the family is unable to repay the debt within 30 days, HACSB will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, HACSB will terminate the family's tenancy.

#### **General Repayment Agreement Guidelines**

##### ***Down Payment Requirement***

Before executing a repayment agreement with a family, HACSB will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to HACSB that a down payment of 10 percent would impose an undue hardship, HACSB may, in its sole discretion, require a lesser percentage or waive the requirement.

##### ***Payment Thresholds***

Repayment agreements will have a minimum monthly payment of \$25.

If a family can provide evidence satisfactory to HACSB that a monthly payment amount of \$25 would impose an undue hardship, HACSB may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement, either HACSB or the family may request that the monthly payment amount be adjusted accordingly.

##### ***Execution of the Agreement***

Any repayment agreement between HACSB and a family must be signed and dated by HACSB and by the head of household and spouse/cohead (if applicable).

### ***Late or Missed Payments***

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by HACSB, HACSB will send the family a delinquency notice giving the family 30 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and HACSB will terminate tenancy.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and HACSB will terminate tenancy.

### ***No Offer of Repayment Agreement***

HACSB generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

## **PART III: RECORD KEEPING**

### **13-III.A. OVERVIEW**

HACSB must maintain complete and accurate accounts and other records for the program in accordance with LIHTC requirements, in a manner that permits a speedy and effective audit.

In addition, HACSB must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

### **13-III.B. RECORDS MANAGEMENT**

HACSB must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

#### HACSB Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACSB staff.

HACSB staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

#### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HACSB may release the information collected.

#### **Criminal Records**

HACSB may only disclose the criminal conviction records which HACSB receives from a law enforcement agency to officers or employees of HACSB, or to authorized representatives of HACSB who have a job-related need to have access to the information.

HACSB must establish and implement a system of records management that ensures that any criminal record received by HACSB from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished.

HACSB must establish and implement a system of records management that ensures that any sex offender registration information received by HACSB from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished

#### **Medical/Disability Records**

HACSB is not permitted to inquire about the nature or extent of a person's disability. HACSB may not inquire about a person's diagnosis or details of treatment for a disability or medical condition.

## **Documentation of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

For requirements and HACSB policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault or stalking, see section 13-IV.E.





## **PART IV: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY**

### **13-IV.A. OVERVIEW**

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving housing assistance. If state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and HACSB policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and HACSB policies are located in Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); and Chapter 11, "Lease Terminations."

### **13-VII.B. DEFINITIONS**

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 individual stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of that individual.
- The term *bifurcate* means, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- 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 of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- The term *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 follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
  - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

### **13-IV.C. NOTIFICATION**

#### **Notification to Public**

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

HACSB will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 16-1)

The definitions of *domestic violence*, *dating violence*, *sexual assault*, and *stalking* provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that HACSB may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A statement of HACSB's obligation to keep confidential any information that it receives from a victim unless (a) HACSB has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

## **Notification to Applicants and Tenants**

HACSB is required to inform LIHTC applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing.

HACSB will provide all applicants with information about VAWA at the time they attend an eligibility interview for housing assistance. HACSB will also include such information in all notices of denial of assistance

HACSB will provide all tenants with information about VAWA at the time of admission and will also include such information in all lease termination notices

HACSB will further provide information about VAWA to any applicant or participant who has possible domestic violence activity, police activity involving a domestic disturbance, other domestic disturbances, restraining orders, or related activity, prior to interviewing or questioning an applicant or participant about the related activity. If in the normal course of interviewing or questioning of police activity, disturbances or criminal activity it is revealed that there is a possible incident or activity related to a domestic disturbance, interviewing or questioning will temporarily stop, and the applicant or participant will be informed of their rights under VAWA before the interviewing or questioning resumes. Nothing in this section shall prohibit HACSB from questioning an applicant or participant regarding possible domestic violence activity, police activity involving a domestic disturbance, other domestic disturbances, restraining orders, or any other related or criminal activity.

HACSB is not limited to providing VAWA information at the times specified in the above policy. HACSB will provide VAWA information to a tenant following an incident of domestic violence, or suspected domestic violence.

Whenever HACSB has reason to suspect that providing information about VAWA to a tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim.

#### **13-IV.D. DOCUMENTATION**

Presented with a claim for initial or continued housing assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse, HACSB 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. HACSB may extend this time period at its discretion.

The individual may satisfy HACSB’s request by providing any one of the following three forms of documentation:

- (1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim
- (2) A federal, state, tribal, territorial, or local police report or court record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health 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.

HACSB 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.

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking 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.

HACSB may, in its discretion, extend the deadline for 10 business days. Any extension granted by HACSB will be in writing.

### **Conflicting Documentation**

In cases where HACSB 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, HACSB may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). HACSB must honor any court orders issued to protect the victim or to address the distribution of property.

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, HACSB 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) or (3) and by following any HUD guidance on how such determinations should be made.

### **Failure to Provide Documentation**

In order to deny relief for protection under VAWA, HACSB 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 HACSB may allow, HACSB may deny relief for protection under VAWA.

### **13-IV.E. CONFIDENTIALITY**

All information provided to HACSB regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that HACSB (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.

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

**EXHIBIT 13-1: SAMPLE NOTICE TO HOUSING APPLICANTS AND TENANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

*This sample notice was adapted from a notice prepared by the National Housing Law Project.*

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, or stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

**Protections for Victims**

If you are eligible for LIHTC housing, the housing authority cannot refuse to admit you to the program solely because you are a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are the victim of domestic violence, dating violence, sexual assault, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a member of your household or a guest can’t be the reason for evicting you if you were the victim of the abuse.

**Reasons You Can Be Evicted**

The housing authority can still evict you if the housing authority can show there is an *actual and imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

**Removing the Abuser from the Household**

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

## **Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

The housing authority can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, sexual assault, or stalking. It must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

### **Confidentiality**

The housing authority must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority to release the information.

If release of the information would put your safety at risk, you should inform the housing authority.

### **VAWA and Other Laws**

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

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.

### **For Additional Information**

If you have any questions regarding VAWA, please contact \_\_\_\_\_ at \_\_\_\_\_.



For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

## Definitions

For purposes of determining whether a public housing applicant or tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines **domestic violence** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines **dating violence** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) 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

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

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

