

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:

May 6, 2026

**LIHTC ACOP -Table of Contents**

---

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

1-A. HACSB Mission ..... 1-1  
1-B. HACSB’s Commitment to Ethics and Service ..... 1-2  
1-C. Overview and Purpose of the Policy..... 1-4  
1-D. 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 .....	2-3
	Discrimination Complaints.....	2-3
PART II:	POLICIES RELATED TO PERSONS WITH DISABILITIES .....	2-4
	2-II.A. Overview .....	2-4
	2-II.B. Definition of Reasonable Accommodation.....	2-4
	Types of Reasonable Accommodations.....	2-4
	2-II.C. Request for an Accommodation.....	2-5
	2-II.D. Verification of Disability.....	2-5
	2-II.E. Approval/Denial of a Requested Accommodation.....	2-6
	2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments .....	2-7
	2-II.G. Physical Accessibility.....	2-7

## LIHTC ACOP -Table of Contents

---

### Chapter 3 ELIGIBILITY

PART I:	DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS .....	3-2
3-I.A.	Overview .....	3-2
3-I.B.	Family and Household .....	3-2
3-I.C.	Family Breakup and Remaining Member of Tenant Family .....	3-2
	Family Breakup .....	3-2
	Remaining Member of a Tenant Family .....	3-3
3-I.D.	Head of Household .....	3-3
3-I.E.	Spouse, Cohead, and Other Adult .....	3-3
3-I.F.	Dependent .....	3-3
	Joint Custody of Dependents.....	3-4
3-I.G.	Full-Time Student.....	3-4
3-I.H.	Elderly and Near-Elderly Persons, and Elderly Family .....	3-5
3-I.J.	Guests .....	3-5
3-I.K.	Foster Children and Foster Adults .....	3-5
3-I.L.	Absent Family Members.....	3-5
	Absent Students.....	3-6
	Absences Due to Placement in Foster Care.....	3-6
	Absent Head or Spouse .....	3-6
	Individuals Confined for Medical Reasons .....	3-6
	Return of Permanently Absent Family Members.....	3-6
3-I.M.	Live-In Aide .....	3-6
PART II:	BASIC ELIGIBILITY CRITERIA.....	3-8
3-II.A.	Income Eligibility and Targeting .....	3-8
	Income Limits.....	3-8
	Using Income Limits for Eligibility.....	3-8
3-II.B.	Suitability as a Tenant.....	3-8
	Screening for Eligibility and Suitability .....	3-9
PART III:	DENIAL OF ADMISSION .....	3-10
3-III.A.	Overview .....	3-10
3-III.B.	Denial of Admission .....	3-10
	Previous Behavior .....	3-11
	Other Reasons for Denial of Assistance .....	3-12

**Chapter 4**

**APPLICATIONS, WAITING LIST AND TENANT SELECTION**

THE APPLICATION PROCESS..... 4-2

4-A. Overview ..... 4-2

4-B. Applying for Assistance ..... 4-2

4-C. Placement on the Waiting List..... 4-2

    Ineligible for Placement on the Waiting List ..... 4-2

    Eligible for Placement on the Waiting List..... 4-2

4-D. Organization of the Waiting List ..... 4-3

4-E. Target Population and Property Specific Waiting Lists ..... 4-3

4-F. Per Unit Vacancy Waitlist ..... 4-3

4-G. Reporting Changes in Family Circumstances..... 4-3

    Removal from the Waiting List ..... 4-4

TENANT SELECTION..... 4-5

4-H. Selection ..... 4-5

    Order of Selection..... 4-5

4-I. Notification of Selection ..... 4-6

4-J. The Application Interview ..... 4-6

4-K. Final eligible Determination ..... 4-7

**Chapter 5**  
**Occupancy Standards and Unit Offers**

OCCUPANCY STANDARDS ..... 5-1

5-A. Overview ..... 5-1

5-B. Determining Unit Size ..... 5-1

5-C. Exceptions to Occupancy Standards ..... 5-2

    Types of Exceptions ..... 5-2

UNIT OFFERS ..... 5-2

5-D. Overview ..... 5-2

5-E. Refusals of Unit Offers ..... 5-4

5-F. Accessible Units ..... 5-5

## LIHTC ACOP -Table of Contents

---

### Chapter 6 INCOME AND SUBSIDY DETERMINATIONS

PART I:	ANNUAL INCOME.....	6-1
6-I.A.	Overview.....	6-2
6-I.B.	Household Composition and Income .....	6-2
6-I.C.	Calculating Annual Income .....	6-2
	Anticipating Annual Income .....	6-2
6-I.D.	Earned Income.....	6-3
6-I.E.	Business and Self Employment Income.....	6-4
	Independent Contractors .....	6-5
	Business Expansion.....	6-5
	Capital Indebtedness .....	6-5
	Negative Business Income .....	6-5
	Withdrawal of Cash or Assets from a Business .....	6-5
	Co-owned Businesses .....	6-6
	Assets Owned by a Business Entity .....	6-6
6-I.F.	Periodic Payments .....	6-6
	Lump-Sum Payments for the Delayed Start of a Periodic Payment.....	6-6
	Retirement Account.....	6-7
	Social Security Benefits.....	6-7
	Alimony and Child Support.....	6-7
6-I.G.	Nonrecurring Income.....	6-7
6-I.H.	Welfare Assistance .....	6-8
6-I.I.	State Payments to Allow Individuals with Disabilities to Live at Home.....	6-9
6-I.J.	Civil Rights Settlements .....	6-10
6-I.K.	Additional Exclusions From Annual Income .....	6-10
PART II:	ASSETS.....	6-17
6-II.A.	Overview.....	6-17
6-II.B.	Assets Disposed of for Less Than Fair Market Value.....	6-17
6-II.C.	Asset Inclusions and Exclusions .....	6-18
6-II.D.	Determining Income From Assets .....	6-25

**LIHTC ACOP -Table of Contents**

---

**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).....	7-2
7-I.D.	Third-Party Written and Oral Verification .....	7-3
	Written Third-Party Verification .....	7-3
	Written Third-Party Verification Form .....	7-3
	Oral Third-Party Verification .....	7-4
7-I.E.	Self-Certification .....	7-4
PART II:	VERIFYING FAMILY INFORMATION .....	7-6
7-II.A.	Verification of Legal Identity .....	7-6
7-II.B.	Social Security Numbers .....	7-6
7-II.C.	Documentation of Age.....	7-7
7-II.D.	Family Relationships .....	7-7
	Marriage .....	7-7
	Separation or Divorce .....	7-8
	Absence of Adult Member.....	7-8
	Foster Children and Foster Adults .....	7-8
7-II.E.	Verification of Student Status.....	7-8
7-II.F.	Citizenship or Eligible Immigration Status.....	7-9
	U.S. Citizens and Nationals .....	7-9
	Eligible Immigrants .....	7-9
7-II.G.	Verification of Preference Status.....	7-9
PART III:	VERIFYING INCOME AND ASSETS.....	7-11
7-III.A.	Earned Income .....	7-11
7-III.B.	Business and Self Employment Income.....	7-11
7-III.C.	Periodic Payments and Payments In Lieu of Earnings.....	7-12
	Social Security/SSI Benefits .....	7-12
7-III.D.	Alimony or Child Support.....	7-12
7-III.E.	Assets and Income from Assets.....	7-13
	Assets Disposed of for Less than Fair Market Value .....	7-13
7-III.F.	Net Income from Rental Property .....	7-13
7-III.G.	Retirement Accounts .....	7-14
Exhibit 7-1:	Summary of Documentation Requirements for Noncitizens .....	7-15

**LIHTC ACOP -Table of Contents**

---

**Chapter 8  
LEASING AND INSPECTIONS**

**PART I: LEASING** ..... 8-1

- 8-I.A. Overview ..... 8-1
- 8-I.B. Lease Orientation ..... 8-1
- 8-I.C. Execution of Lease ..... 8-2
- 8-I.D. Modification to the Lease ..... 8-2
  - Modifications to the lease form ..... 8-2
  - Other Modifications ..... 8-3
- 8-I.E. Security Deposits ..... 8-3
- 8-I.F. Payments Under the Lease ..... 8-4
  - Late Fees and Nonpayment ..... 8-5
  - Maintenance and Damage Charges ..... 8-5

**PART II: INSPECTIONS** ..... 8-6

- 8-II.A. Overview ..... 8-6
- 8-II.B. Types of Inspections ..... 8-6
  - Move in Inspections ..... 8-6
  - Move-Out Inspections ..... 8-6
  - Annual Inspections ..... 8-6
  - Special Inspections ..... 8-6
  - Other Inspections ..... 8-7
- 8-II.C. Notice and Scheduling of Inspections ..... 8-7
  - Notice of Entry ..... 8-7
  - Scheduling of Inspections ..... 8-7
  - Attendance at Inspections ..... 8-8
- 8-II.D. Inspection Results ..... 8-8
  - Emergency Repairs ..... 8-8
  - Non-emergency Repairs ..... 8-9
  - Resident-Caused Damages ..... 8-9
  - Housekeeping ..... 8-9

**LIHTC ACOP -Table of Contents**

---

**Chapter 9  
REEXAMINATIONS**

**ANNUAL REEXAMINATIONS**

9-A.	Overview .....	9-1
9-B.	Scheduling Annual Reexaminations .....	9-1
	Notification of and Participation in the Annual Reexamination Process .....	9-2
9-C.	Conducting Annual Reexaminations.....	9-2
	Change in Unit Size .....	9-3
	Criminal Background Checks .....	9-3
	<b>INTERIM REEXAMINATIONS.....</b>	<b>9-4</b>
9-D.	Overview .....	9-4
9-E.	Changes in Family and Household Composition .....	9-4
	New Family Members Not Requiring Approval.....	9-4
	New Family and Household Members Requiring Approval .....	9-4
	Departure of a Family or Household Member .....	9-5
	Required Reporting.....	9-5
9-F.	Notification of New Tenant Rent.....	9-5

**LIHTC ACOP -Table of Contents**

---

**Chapter 10  
PETS**

PART I:	ASSISTANCE ANIMALS.....	10-1
	10-I.A. Overview .....	10-1
	10-I.B. Approval of Assistance Animals.....	10-2
	10-I.C. Care and Handling.....	10-2
PART II:	PET POLICIES FOR ALL DEVELOPMENTS .....	10-3
	10-II.A. Overview .....	10-3
	10-II.B. Management Approval of Pets.....	10-3
	Registration of Pets.....	10-3
	Pet Agreement .....	10-3
	10-II.C. Standards for Pets.....	10-3
	10-II.D. Pet Rules .....	10-4
	Pet Area Restrictions .....	10-4
	Cleanliness .....	10-4
	Alterations to Unit .....	10-4
	Noise.....	10-4
	Pet Care .....	10-4
	Responsible Parties.....	10-4
	Pets Temporarily on the Premises.....	10-5
	Pet Removal.....	10-5

## LIHTC ACOP -Table of Contents

---

### Chapter 11 LEASE TERMINATIONS

TERMINATION BY TENANT.....	11-1
11-A. Tenant Chooses to Terminate the Lease .....	11-1
TERMINATION BY HACSB .....	11-1
11-B. Overview .....	11-1
11-C. Failure to Accept HACSB’s Offer of a Lease Revision .....	11-1
11-D. Lifetime Registered Sex Offenders .....	11-2
11-E. Death of a Sole Family Member .....	11-2
11-F. Lease Provisions.....	11-2
Drug Crime on or off the Premises .....	11-2
Illegal Use of a Drug.....	11-2
Threat to Other Residents .....	11-3
Alcohol Abuse .....	11-3
Other Serious or Repeated Violations of Material Terms Of the Lease .....	11-3
Other Good Cause .....	11-5
Family Absence from Unit .....	11-6
11-G. Criteria for Deciding to terminate Tenancy.....	11-6
Evidence .....	11-6
Consideration of Circumstances.....	11-7
11-H. Terminations Related to Domestic Violence, Dating Violence Stalking, or Sexual Assault.....	11-8
VAWA Protections Against Termination.....	11-8
Limitations on VAWA Protections .....	11-8
Documentation of Abuse.....	11-9
11-I. Lease Termination Notice.....	11-9
11-J. Eviction .....	11-9

## LIHTC ACOP -Table of Contents

---

### 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 Review Process.....	12-1
	Notice of Denial .....	12-1
	Scheduling an Informal Review .....	12-1
	Conducting an Informal Review.....	12-2
	Informal Review Decision .....	12-2
PART II:	GRIEVANCE PROCEDURES FOR LIHTC RESIDENTS .....	12-3
	12-II.A. Requirements .....	12-3
	12-II.B. Definitions.....	12-3
	Request for a Hearing.....	12-3
	Scheduling of Hearings .....	12-3
	12-II.C. Selection of Hearing Officer/Panel .....	12-3
	12-II.D. Procedures Governing the Hearing .....	12-4
	Decision Without Hearing.....	12-4
	Failure to Appear .....	12-5

## 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.

#### **1-C. 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, California Tax Credit Allocation Compliance Manuals, HUD handbooks and guidebooks, notices and applicable state and local laws.

#### **1-D. 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 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 life 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.
  - Have substantial income to pay the monthly LIHTC maximum rent
  - 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 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.
- Applicants for Restricted Area “Downtown” Workforce housing must, in addition to the above, have employment in the designated geographical region and a minimum annual income of \$25,000.

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 requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit.

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

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

#### **Family**

A family is defined as the people who will reside in the LIHTC unit as tenants whose income and assets are included in eligibility determinations and who have legal right to occupancy under the terms of the lease.

#### **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**

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault or stalking, HACSB must ensure that the victim retains assistance.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, HACSB is bound by the court's determination of which family members continue tenancy.

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.

In order to be considered a remaining member of a tenant family, any household member(s) who were not part of the original lease, must have been added to the lease and occupied the subsidized unit for a minimum of 12 months prior to the departure of the Head of Household.

### **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.

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

*A family may have a spouse or co-head*

*A marriage partner/spouse* 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.

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

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

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

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

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides.

### **Joint Custody of Dependents**

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

### **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.

#### **Elderly Family**

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

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

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

A guest can remain in the assisted 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 is expected to last 40 consecutive days). Upon request, families must identify and provide documentation of the residence to which the guest will return. In the absence of such documentation, the guest will be considered an unauthorized household member. The PHA may terminate assistance for families that allow unauthorized household members.

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

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

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

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**

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. Members 18 years of age or older who are attending school away from home must still attend required household appointments. Should they not be able or willing to attend appointments they will be considered absent family members and will be removed from the 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.

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**

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**

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**

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.L. 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 i to make the program accessible to and usable by the family member with disabilities.

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.

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

Continued approval is subject to HACSB verification at each annual reexamination if already housed. In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is: 1) Not obligated for the support of the person(s) needing the care and; 2) Would not be living in the unit except to provide the necessary supportive services. The proposed live-aide must pass the HACSB eligibility process for live-in aides.

HACSB will not approve a particular person as a live-in aide, and may withdraw prior approval if: The person has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; or the person has committed drug-related criminal activity or violent criminal activity; or the person currently owes rent or other amounts to HACSB.

## **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.

Income will also be used to determine whether an applicant is able to pay the monthly rent for a particular LIHTC unit. An applicant must demonstrate the ability to pay the monthly rent for a period of not less than 12 months following initial occupancy. Ability to pay is defined as monthly rent not to exceed 60% of a household's gross income, or the ability to pay based on on-going rental subsidy, such as Section 8.

### **3-II.B. 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 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

- Compliance with any other essential conditions of tenancy

## **Screening for Eligibility and 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.

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

HACSB will perform criminal background checks on all adult household members through the FBI Livescan fingerprinting system. Such background checks will reference past performance in meeting financial obligations, especially rent, disturbances of neighbors, destruction of property, living or housekeeping habits at prior residences that may affect the health, safety and welfare of others, or cause damage to the premises. Information may be gathered in the following ways:

- HACSB and landlord references for the past five years. 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 resident, but a poor credit rating may.
- Applicants with no rental payment history may 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 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 suitability as a tenant. (e.g. rent receipts, cancelled checks, etc.)
- 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.

## PART III: DENIAL OF ADMISSION

### 3-III.A. OVERVIEW

A family that does not meet the eligibility or suitability criteria the family will be denied 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.

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

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

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

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.

*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.

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. 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 below. 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

HACSB **will** deny assistance to an applicant family if:

Any family member has been evicted from HACSB housing or any federal assisted housing in the last five years.

HACSB has ever terminated assistance or tenancy for any member of the family for non-compliance.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any PHA in connection with any housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward HACSB personnel or its contractors.

*Abusive or violent behavior towards HACSB personnel or its contractors* 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.

### **Other Reasons for Denial of Assistance**

HACSB **will** deny assistance to an applicant family if:

The family does not provide information that HACSB determines is necessary in the administration of the program.

The family does not provide complete and true information to HACSB.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any housing program.

The family has breached the terms of a repayment agreement entered into with HACSB, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward HACSB personnel or its contractors.

*Abusive or violent behavior towards HACSB personnel or its contractors* 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.

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.

## **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. HACSB will place all applicants that apply for the LIHTC units on the corresponding waiting list.

HACSB must comply with all equal opportunity requirements, and it must affirmatively further fair housing goals in the administration of this 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 HACSB 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 APPLICATION PROCESS**

### **4-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-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 this 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 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 for any LIHTC wait list that is accepting applications. Family may request a paper application from HACSB's main office if a reasonable accommodation is needed.

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

Applicants for whom the waiting list is open will 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.

#### **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. The notice will specify the reasons for ineligibility.

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

The online application system provides immediate notification of receipt of application when complete applications are submitted.

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

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.

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

HACSB's waiting lists will 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 policy.

Waiting lists will contain the following information for each applicant listed:

- Name and social security number of each member
- 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 each household member

HACSB maintains waitlists by property, target population (senior, homeless) or on a per unit vacancy basis depending on property. Properties that have overlaid Section 8 Project Based subsidies have waitlists that are managed in accordance with policies in HACSB's Section 8 Housing Choice Voucher Administrative Plan.

#### **4-E. TARGET POPULATION AND PROPERTY SPECIFIC WAITING LISTS**

HACSB will generally leave population specific, or property specific waitlists open for applications.

#### **4-F. PER UNIT VACANCY WAITLIST**

Properties for which vacancies are advertised in anticipation of a vacancy are advertised on Craigslist and the Housing Authority website. Initial applicants are placed on the waitlist, upon filling the vacant unit with a new tenant the waitlist is purged and interested applicants must reapply for future vacancies.

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

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

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.

**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 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.

## TENANT SELECTION

### 4-H. SELECTION

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

Local preferences applicable to all waitlists are as follows

**(2 points) Residency Preference:** Families who live, work, or who have been hired to work within the South coast region of Santa Barbara County. Work or hired to work will be defined as 20 hours a week for pay. Minimum of 20 hours of work per week must be performed at a location within the jurisdiction of HACSB.

**(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) and families residing in a HACSB locally financed or HACSB managed property that have a rent burden exceeding 50% of household gross annual income

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:

#### 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 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 can afford the monthly rent, and 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-I. NOTIFICATION OF SELECTION**

When the family has been selected from the waiting list, HACSB will notify the family by first class mail, e-mail or via the Housing Authority application portal Rent Café if available.

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-J. THE APPLICATION INTERVIEW**

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. 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.

If the family is unable to attend a scheduled interview, the family must contact HACSB in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, their applications will be cancelled based on the family's failure to appear 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-K. 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 will be notified of their eligibility as well as an approximate date of occupancy insofar as that date can be reasonably determined if a unit is available. 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 of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity to contest such determination.

## Exhibit A

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

#### **Cottage Gardens**

#### **17 One-Bedroom Senior Housing Units**

*HACSB does not maintain a Cottage Gardens waitlist. HACSB will advertise unit vacancies to the public when there is an actual or anticipated vacancy.*

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**

*Interested applicants apply to the Garden Court Property Specific Waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

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**

*Interested applicants apply to the El Carrillo Property Specific Waitlist.*

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**

*Interested applicants apply to the Artisan Court property Specific waitlist*

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**

*Interested applicants apply to the Bradley Studios property specific waitlist.*

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 Senior Housing Units***

*Interested applicants apply to the Senior Housing-Subsidized Project Based waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

11 Unit shall be occupied by households at or below 50% AMI.

95 Units shall be occupied by households at or below 60% AMI.

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

*HACSB does not maintain a Villa Santa Fe II waitlist. HACSB will advertise unit vacancies to the public when there is an actual or anticipated vacancy.*

12 Units shall be occupied by households at or below 50% AMI.

47 Units shall be occupied by households at or below 60% AMI.

***Grace Village***

*Property and Waitlist managed by Caring Housing Ministries. For Project-Based Section 8 units, interested applicants apply to the Senior Housing-Subsidized waitlist and waitlist policies are addressed in the Section 8 Administrative Plan.*

Units shall be occupied by households at or below 60% AMI

***Gardens on Hope      89 Studio Senior Housing Units***

*Interested applicants apply via Gardens on Hope Waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

9 units shall be occupied by households at or below 30% AMI

32 units shall be occupied by households at or below 40% AMI

48 units shall be occupied by households at or below 60% AMI

***Johnson Court      16 Studio Housing Units for Veterans***

*Interested applicants apply to the Johnson Court waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

2 units shall be occupied by households at or below 30% AMI  
12 units shall be occupied by households at or below 40% AMI  
2 units shall be occupied by households at or below 50% AMI

**Vera Cruz Village      28 Studio Units**

*Interested applicants apply to the Vera Cruz Village waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

12 units shall be occupied by households at or below 30% AMI.  
12 units shall be occupied by households at or below 45% AMI.  
2 units shall be occupied by households at or below 50% AMI.  
2 units shall be occupied by households at or below 60% AMI.

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 Garden Court on De La Vina and Gardens on Hope

Applicants for Garden Court or Gardens on Hope must be 62 years of age or older and demonstrate a need for the supportive services offered at the projects. Applicant certification and verification of the need for supportive services will be required for each applicant.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

#### ***Additional preferences***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.

8 Points - HACSB Clients-Participants in the Housing Authority of the City of Santa Barbara's (HACSB) Section 8 program or who currently reside in housing units owned and/or operated by HACSB.

4 Points - Homeless/At Risk of Homelessness- clients who are homeless or at risk of being homeless who have a referral from a Southern Santa Barbara County social service agency evidencing the applicant's need for the housing and services available at the properties. All referrals will require a written agreement from the referring agency and/or case manager to provide for at least one (1) year case/crisis management services from the date that the client is housed.

## Exhibit C

### Admissions Guidelines for El Carrillo

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

Homeless

Do not own, lease or control, or regularly use a vehicle.

Single occupancy

Willingness to participate in on site supportive services if needed

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

*2 Points- Homeless: Persons who are currently homeless*

*2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.*

In addition to the suitability screening outlined in Chapter 3, El Carrillo applicants are subject to a suitability assessment to be administered by the on-site supportive service provider. The assessment will be used in addition to landlord/shelter verifications and other suitability criteria, to identify the client's ability to adhere to lease obligations.

## Exhibit D

### Admission Guidelines for Artisan Court

Artisan Court will house three specific groups: youth aging out of foster care (transition aged youth or TAY), special needs/disabled, and low-income restricted area workers.

***Special Admissions for Transition Aged Youth:*** Up to 15 units of Artisan Court shall be allocated for transition aged youth, defined as youth, ages 18-21. 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 a program waiting list, however referrals will be submitted through HACSB's online waitlist system. 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.

***Special Needs/disabled:*** Up to 26 units shall be designated for special needs individuals. Applicants will be selected from the Artisan Court waiting list.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle. Non-elderly, non-disabled, Single applicants will be ranked below all other applicants.

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 PBV waiting list, and who meet all eligibility requirements set forth in this policy as well as qualify for Section 8 assistance per HUD guidelines.
- ***Continuum of Care (CoC):*** 4 units at Artisan Court shall be selected to receive rental subsidy in the form of Continuum of Care assistance. Recipients must be chronically homeless, disabled individuals, referred by the Coordinated Entry System. CoC 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.

**Restricted Area Workforce Housing:** Up to 22 units shall be designated for workers employed within the Housing Authority's designated boundaries. Applicants will be selected from the Artisan Court Waitlist.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

- 2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.
- 2 Points- Restricted Area Workforce - All employed household members must report to work, for all employment, within the restricted area boundaries as outlined in Exhibit I

## Exhibit E

### Admission Guidelines for Bradley Studios

Bradley Studios will house special needs/disabled applicants, youth aging out of foster care (transition aged youth or TAY), and low-income restricted area workers.

**Special Needs/disabled:** Up to 26 units shall be designated for special needs individuals. Applicants will be selected from the Bradley Studios waiting list.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle. Non-elderly, non-disabled, single applicants will be ranked below all other applicants.

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 this policy as well as qualify for Section 8 assistance per HUD guidelines.
- **Continuum of Care (CoC):** 4 units at Bradley Studios shall be selected to receive rental subsidy in the form of Continuum of Care assistance. Recipients must be chronically homeless, disabled individuals, referred by the Coordinated Entry System. CoC 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.

**Restricted Area Workforce Housing:** Up to 22 units shall be designated for workers employed within the Housing Authority's designated boundaries. Applicants will be selected from the Bradley Studios waiting list.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.  
2 Points- Restricted Area Workers-All employed household members must report to work, for all employment, within the restricted area boundaries as outlined in Exhibit I

## Exhibit F

### Admissions Guidelines for Villa Santa Fe I and Villa Santa Fe II

#### **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. Applicants (head or spouse) for this property must be 62 years of age or older. 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. Applicants will be selected from the Senior Housing – Subsidized Waitlist. In addition to waitlist ranking of preference points and date and time as outlined in the Section 8 Administrative Plan, suitability criteria for admission as outlined in this Plan remain 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 (head or spouse) for this property must be 62 years of age or older. All applicants must meet the income limit requirement of 60% of AMI or below and be able to afford the monthly rent.

HACSB does not maintain a Villa Santa Fe II waitlist. HACSB will advertise unit vacancies to the public when there is an actual or anticipated vacancy.

Advertisement will include the unit size, monthly rental amount, date of anticipated occupancy, general eligibility criteria and notification that applications are being accepted. Notification of vacancies will be posted on HACSB's website, craigslist, and/or other apartment rental websites with instructions on how to apply. Applications received will be and time stamped.

Applicants who meet the minimum criteria for the available unit, e.g. unit size, designated population, unit designated Area Median Income, vehicle restriction, etc., will be ranked based on date and time of application and the following preferences:

**(2 points) Residency Preference:** Families who live, work, or who have been hired to work within the South coast region of Santa Barbara County. Work or hired to work will be defined as 20 hours a week for pay. Minimum of 20 hours of work per week must be performed at a location within the jurisdiction of HACSB.

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

HACSB reserves the right to select families outside of the above preference ranking in order 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).

Waitlist will be purged once the advertised unit is filled.

## Exhibit G

### Admissions Guidelines for Cottage Gardens

HACSB does not maintain a Cottage Gardens waitlist. HACSB will advertise unit vacancies to the public when there is an actual or anticipated vacancy.

Advertisement will include the unit size, monthly rental amount, date of anticipated occupancy, general eligibility criteria and notification that applications are being accepted. Notification of vacancies will be posted on HACSB's website, craigslist, and/or other apartment rental websites with instructions on how to apply. Applications received will be and time stamped.

Applicants who meet the minimum criteria for the available unit, e.g. unit size, designated population, unit designated Area Median Income, vehicle restriction, etc., will be ranked based on date and time of application and the following preferences:

**(2 points) Residency Preference:** Families who live, work, or who have been hired to work within the South coast region of Santa Barbara County. Work or hired to work will be defined as 20 hours a week for pay. Minimum of 20 hours of work per week must be performed at a location within the jurisdiction of HACSB.

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

HACSB reserves the right to select families outside of the above preference ranking in order 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).

Waitlist will be purged once the advertised unit is filled.

## Exhibit H Johnson Court

Interested applicants apply to the Johnson Court waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan. Applicants must be a US Veteran and have been separated from service under other than dishonorable discharge. Property is 100% Project Based Section 8, so in addition to being a US Veteran applicants must also be 62 years of age or older, or have a verifiable disability, or consist of two household members.

8 units designated for homeless US Veterans  
5 units designated for US Veterans with Special Needs  
3 units designated for US Veterans

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.  
-21 Points- Non-elderly, non-disabled, Single applicants

## Exhibit I Vera Cruz Village

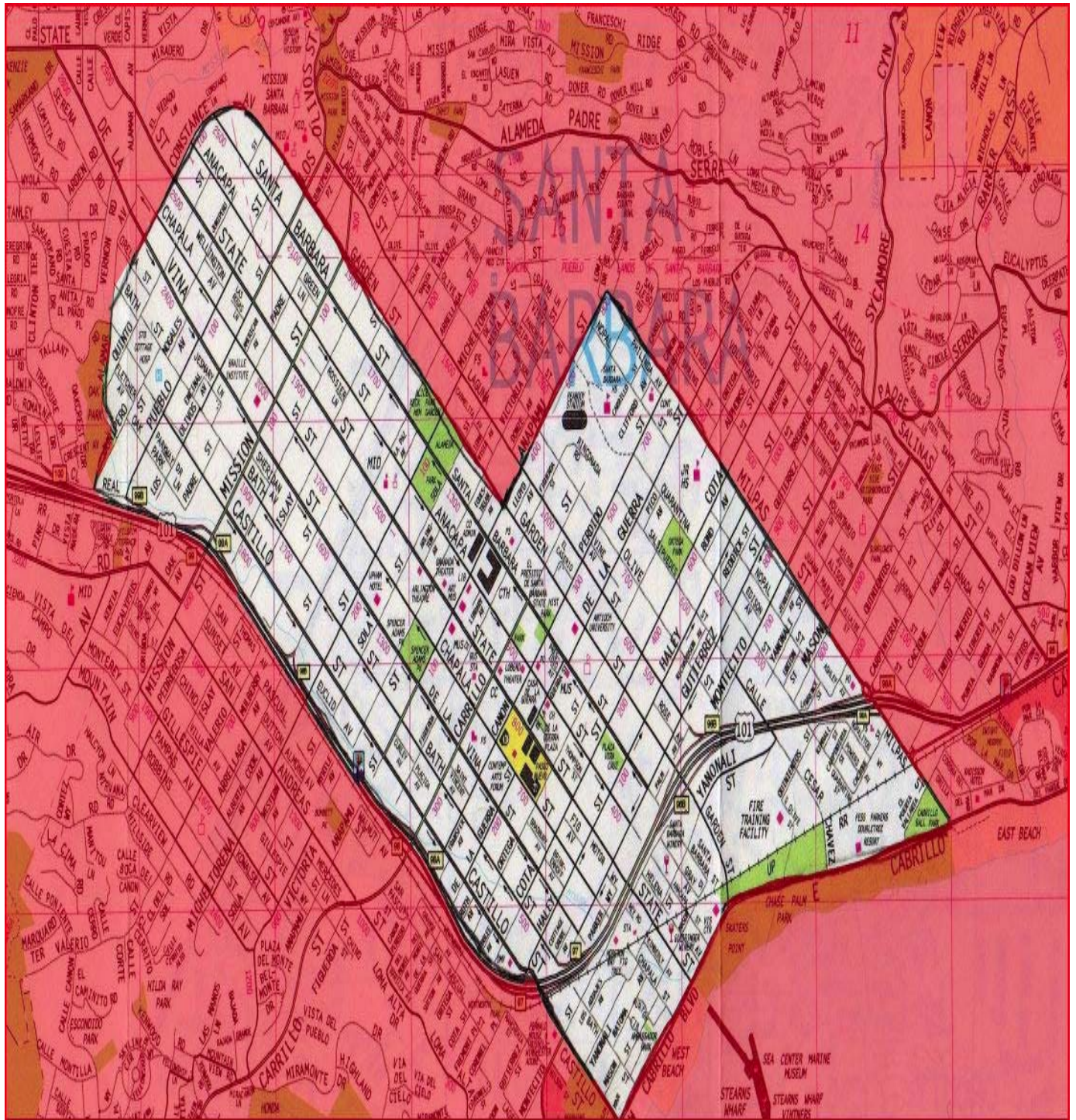
Interested applicants apply to the Vera Cruz waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan. Property is 100% Project Based Section 8, so applicants must also be 62 years of age or older, or have a verifiable disability, or consist of two household members.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

- 2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.
- 2 Points- Homeless/At Risk of Homelessness- clients who are homeless or at risk of being homeless including residing in transitional housing.
- 21 Points- Non-elderly, non-disabled, Single applicants

# Exhibit J

## Restricted Area Workforce Boundaries



## 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).

#### OCCUPANCY STANDARDS

##### 5-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-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:

<b>BEDROOM SIZE</b>	<b>MINIMUM NUMBER OF PERSONS</b>	<b>MAXIMUM NUMBER OF PERSONS</b>
0	1	2
1	1	3
2	2	5
3	3	7
4	4	7

Exceptions to these standards are applicable for occupancy of units at El Carrillo. Maximum Occupancy will be 1 person per studio at El Carrillo Developments.

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

#### **Types of Exceptions**

HACSB will consider granting exceptions to the occupancy standards when requested as reasonable accommodation.

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

In the case of a request for exception as a reasonable accommodation, HACSB will encourage the resident to make the request in writing. 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.

### **UNIT OFFERS**

#### **5-D. OVERVIEW**

HACSB has adopted a “one offer plan” for offering units to applicants.

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-E. 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.

The family is currently in a lease that they cannot break.

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**

If an applicant rejects the first unit offer without good cause, the applicant will remain on the waitlist, but the date and time of application will be modified to match the date the applicant refused the offer. When an applicant rejects the second or final unit offer without good cause, HACSB will remove the applicant’s name from the waiting list.

If the applicant’s name is removed from the waitlist, 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-F. 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.

## Chapter 6

### 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.

#### PART I: ANNUAL INCOME

##### 6-I.A. OVERVIEW [24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources (other than those specifically excluded in 24 CFR 5.609(b)) by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income (other than those sources specifically excluded in 24 CFR 5.609(b)) by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. However, when a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, HACSB must use the gross amount of the income, prior to the reduction, to determine a family's annual income [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH

2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of income and assets.

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

Income received by all family members must be counted unless specifically excluded by the regulations. The chart below summarizes how family composition affects income determinations.

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].  All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)].  All sources of unearned income, except those specifically excluded by the regulations, are included.

**6-I.C. CALCULATING ANNUAL INCOME**

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

**Anticipating Annual Income [24 CFR 5.609(c)(1)]**

At initial occupancy and for an interim reexamination of family income, HACSB is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date.

When HACSB cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), 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.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how HACSB annualized projected income.

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

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

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

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

### ***Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]***

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)]. Income earned as a day laborer is not considered nonrecurring income.

A *seasonal worker* is defined as an individual who is hired into a short-term position ( e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income.

HACSB will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

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

### ***Military Pay***

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

### ***Earnings of a Minor [24 CFR 5.609(b)(3)]***

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

### ***Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]***

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. 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].

## **6-I.E. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]**

Annual income includes “net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

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

## **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)]. This may include individuals such as third-party delivery and transportation service providers and “gig workers” like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income.

## **Business Expansion**

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

*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.

*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**

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.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, 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**

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

### **Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

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

Periodic payments are forms of income received on a regular basis.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b), and thus they are included in annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

HACSB will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

### **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

### **Social Security Benefits [Notice PIH 2018-24]**

HACSB is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, HACSB must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

### **Alimony and Child Support**

HACSB will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement unless the family certifies and HACSB verifies that the payments are not being made.

### **6-I.G. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly).

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

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

### **Overview**

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

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

HACSB must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided

as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

### ***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.I. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family’s assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family’s assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

#### **6-I.J. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount (\$50,000 for 2024, and \$51,600 for 2025), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and HACSB or owner chooses not to conduct the examination.

#### **6-I.K. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b); FR Notice 1/31/2024]**

Other exclusions contained in 24 CFR 5.609(b) and FR Notice 1/31/24 that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages are included in annual income [Notice PIH 2023-27].

- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family’s annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income.
- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(i)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for HACSB or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.609 l(12)(ii)].

Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

#### HACSB Policy

HACSB defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

HACSB defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, HACSB will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with HACSB’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. 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)). This exclusion also applies to assets.
- (b) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.
- (c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.
  - Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).
- (d) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506).
- (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)(1)).
- (g) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 which was reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2)).

- (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 Section 6).
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407–1408).
- (m) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).
- (n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.
- (o) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spinal bifida (42 U.S.C. 12637(d)).
- (p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.
- (q) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).
- (r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion also applies to assets.
- (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) This exclusion also applies to assets.
- (t) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau

of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327 (as amended)).

- (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 that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).
- (w) Any amounts in an “individual development account” are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).
- (x) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.
- (y) Distributions from an ABLÉ account, distributions from and certain contributions to an ABLÉ account established under the ABLÉ Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.
- (z) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).
- (aa) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.
- (ab) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita

payments as described in IRS Notice 2013-1. The first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

- (ac) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

## PART II: ASSETS

### 6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapters 3 and 12.

Income from assets is always anticipated, irrespective of the income examination type.

#### HACSB Policy

HACSB generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. HACSB will 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.

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.

### 6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value [Notice PIH 2023-27].

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.

### ***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. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### ***Family Declaration***

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.

## **6-II.C. ASSET INCLUSIONS AND EXCLUSIONS**

### ***Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]***

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required

for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds the HUD-published threshold amount (adjusted annually and published in HUD's current year Inflation-Adjusted Values tables). When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets.

- The threshold amount is \$50,000 for 2024, and \$51,600 for 2025.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
<p>Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</p> <p>Furniture, carpets, linens, kitchenware</p> <p>Common appliances</p> <p>Common electronics (e.g., radio, television, DVD player, gaming system)</p> <p>Clothing</p> <p>Personal effects that are not luxury items (e.g., toys, books)</p> <p>Wedding and engagement rings</p> <p>Jewelry used in religious/cultural celebrations and ceremonies</p> <p>Religious and cultural items</p> <p>Medical equipment and supplies</p> <p>Health care–related supplies</p> <p>Musical instruments used by the family</p> <p>Personal computers, phones, tablets, and related equipment</p> <p>Professional tools of trade of the family, for example professional books</p> <p>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</p> <p>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</p>	<p>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</p> <p>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</p> <p>Recreational boat/watercraft</p> <p>Expensive jewelry without religious or cultural value, or which does not hold family significance</p> <p>Collectibles (e.g., coins/stamps)</p> <p>Equipment/machinery that is not used to generate income for a business</p> <p>Items such as gems/precious metals, antique cars, artwork, etc.</p>

### ***Checking and Savings Accounts [Notice PIH 2023-27]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's current year Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

### ***ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. HACSB must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net

family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii); Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. HACSB must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and HACSB chooses not to conduct the examination.

HACSB Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, HACSB must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;

- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

#### ***Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]***

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

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust continues to be excluded from net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Further, where an irrevocable trust is excluded from net family assets, HACSB must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the

property is held in the trust. HACSB must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

- A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

#### ***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

#### ***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered \$0.

#### ***Asset Exclusions [24 CFR 5.603(b)]***

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

#### **6-II.D. DETERMINING INCOME FROM ASSETS**

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are

excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets.

### ***Net Family Assets***

*Net family assets* are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

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.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

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

Income from assets must be included in calculations regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

HACSB may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. The threshold amount is \$50,000 for 2024, and \$51,600 for 2025.

HACSB may not calculate or include any imputed income from assets when net family assets are less than or equal to the HUD-published threshold amount [24 CFR 5.609(b)(1)].

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

When net family assets exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, HACSB may not rely on self-

certification. If actual returns can be calculated, HACSB must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, HACSB must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). Imputed income is calculated by multiplying the net cash value of the asset (found by deducting reasonable costs that would be incurred in disposing of the asset from the market value) by the HUD-published passbook rate. If HACSB can compute actual income from some but not all assets, HACSB must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## 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 an Authorization for Release of Information. The purpose of it 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 household 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/Equifax

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

There are two types of written third-party verification. Written third-party verification and a written third-party verification form. Written third-party 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. A written third-party verification form is a standardized form used to collect information from a third party. HACSB must collect third party verifications.

#### **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 or the family is unable to provide sufficient 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 acceptable only for purposes of clarification. Oral third-party verification should never be used as proof of termination of a source of income.

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, banking account activity, referrals from local shelters and social service agencies, home visits. For those who live outside of the South Coast Region of Santa Barbara, but work or have been hired to work within the region, work will be defined as a minimum of 20 hours per week for pay, worked within the jurisdiction South Coast region of Santa Barbara County. Verification of the location work is performed will be required. Self-Employed or Contract employees must provide verification that a minimum of 20 hours per week is done within the South Coast region of Santa Barbara County. Residency preference will not be granted for applicants who are attending school within the Housing Authority's jurisdiction, who do not meet the living or working criteria previously listed.

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 or receiving Section 8 subsidy: Verified through HACSB records.

Referral for Garden Court/Gardens on Hope Services: Verified through submission of a completed verification form. Clients being referred must demonstrate the need for a minimum of 3 of the services offered to be issued this preference.

## **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.

#### 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:

<b>Unit Size</b>	<b>Security Deposit</b>
Garden Court/Gardens on Hope	\$300
Supportive Services properties	\$1,000
1 Bedroom	\$1000
2 Bedroom	\$1200
3 bedroom	\$1500
4 Bedroom	\$1800
5 Bedroom	\$2000

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 21 days or current California Law 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.

Any balance from move-out charges due to the Housin Authority must be paid within 30 days. If the resident disagrees with the amount charged, the resident has 14 calendar days to dispute the charges and request a meeting with HACSB to discuss the charges.

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.

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 30 day Notice Pay or Quit 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 they wish, 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.

#### ANNUAL REEXAMINATIONS

##### 9-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-B. SCHEDULING ANNUAL REEXAMINATIONS

HACSB has established 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-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. Families must also complete, and sign required CTCAC forms at the annual review and the completion of the annual review.

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.

## **INTERIM REEXAMINATIONS**

### **9-D. 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-E. 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.

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.

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**

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.

### ***Required Reporting***

Families are required to report the following:

- If any household member moves out of the Leased Premises or is deceased.
- Any change in household due to birth, adoption, or court awarded custody of a child.
- Marriage of any household member. \*Marriage does not automatically qualify a new spouse to reside in the unit. They must be determined eligible by HACSB, BEFORE moving into the unit.
- If any household member is arrested, incarcerated, and/or convicted of any type of criminal activity or is required to register as a sex offender. \*Any members required to register as a sex offender will be removed from the lease.
- Any change in household income, employment, student status, or assets since the last recertification.

### **9-I.F. NOTIFICATION OF NEW TENANT RENT**

HACSB will increase the contract rent at the completion of each annual reexamination review to the current published CTCAC rent based on the unit’s Area Median income rent limit.

The LIHTC lease requires HACSB to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective.

A family will receive written notice of a rent change which will include the effective date of the change and the revised tenant rent.

## 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.

#### 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 this Policy.

### **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**

Tenants are required to register their pet/s with HACSB before they are brought onto the premises. Pets will not be approved to reside in a unit until the registration requirements are completed, and the pet has been approved.

Registration includes providing HACSB with a picture of the pet, as well as documentation signed by a licensed veterinarian or state/local authority demonstrating that the pet has received all inoculations required by state or local law, has no communicable disease(s), and is pest-free. Pet owners are required to pay a \$300.00 pet deposit in addition to any other required deposits. The \$300.00 deposit must be either paid in full before the pet is brought onto the premises or paid through a signed payment agreement with minimum installments of \$25.00 per month.

#### **Pet Agreement**

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:

- Prohibition on any animal not permitted under state or local law or code
- A "reasonable person standard" regarding the number of pets allowed. Factors include whether a person of ordinary prudence would be able to adequately care for the animals without creating a nuisance, maintaining sanitation, and ensuring the safety of neighbors.

## **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**

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.

### **Cleanliness**

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**

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**

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**

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**

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**

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 Removal**

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.

## 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 federal, state and local landlord-tenant laws.

This chapter presents the policies that govern voluntary termination of the lease by the family and the termination of the lease by HACSB.

#### TERMINATION BY TENANT

##### 11-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 main office or sent by pre-paid first-class mail, properly addressed.

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.

#### TERMINATION BY HACSB

##### 11-B. 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 comply with all requirements of California law and other applicable programs.

##### 11-C. 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.

#### **11-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-E. DEATH OF A SOLE FAMILY MEMBER**

HACSB must immediately terminate tenancy for deceased single member households.

#### **11-F. LEASE PROVISIONS**

This section addresses provisions for lease termination that will be included in the lease agreement.

##### **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.

*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.

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 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 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 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 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 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.

A household 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-G. CRITERIA FOR DECIDING TO TERMINATE TENANCY**

Even though HACSB may have grounds to terminate a tenancy is not required to do so, 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

HACSB's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

## **11-H. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT**

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 assistance for the LIHTC program.

### **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 tenancy 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)]

#### HACSB Policy

In determining whether a resident 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

#### **Documentation of Abuse [24 CFR 5.2007]**

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.

#### **11-I. 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.

#### **11-J. 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.

## 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 LIHTC housing applicants.

Part III: Grievance Procedures for LIHTC Residents. This part outlines the requirements and procedures for handling grievances for LIHTC 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 review.

##### 12-I.B. INFORMAL REVIEW PROCESS

Informal reviews 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 reviews are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project.

Informal reviews 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 review to dispute the decision.

##### Scheduling an Informal Review

A request for an informal review 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 review within 10 business days of the family's request.

### **Conducting an Informal Review**

The informal review 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 review 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 Review Decision**

HACSB will notify the applicant of HACSB's final decision, including a brief statement of the reasons for the final decision.

If the informal review decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

## **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 ten (10) 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 1**  
**OVERVIEW OF THE PROGRAM AND PLAN**

1-A. HACSB Mission ..... 1-1  
1-B. HACSB’s Commitment to Ethics and Service ..... 1-2  
1-C. Overview and Purpose of the Policy..... 1-4  
1-D. 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 .....	2-3
	Discrimination Complaints.....	2-3
PART II:	POLICIES RELATED TO PERSONS WITH DISABILITIES .....	2-4
	2-II.A. Overview .....	2-4
	2-II.B. Definition of Reasonable Accommodation.....	2-4
	Types of Reasonable Accommodations.....	2-4
	2-II.C. Request for an Accommodation.....	2-5
	2-II.D. Verification of Disability.....	2-5
	2-II.E. Approval/Denial of a Requested Accommodation.....	2-6
	2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments .....	2-7
	2-II.G. Physical Accessibility.....	2-7

---

## LIHTC ACOP -Table of Contents

---

### Chapter 3 ELIGIBILITY

PART I:	DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS .....	3-2
3-I.A.	Overview .....	3-2
3-I.B.	Family and Household .....	3-2
3-I.C.	Family Breakup and Remaining Member of Tenant Family .....	3-2
	Family Breakup .....	3-2
	Remaining Member of a Tenant Family .....	3-3
3-I.D.	Head of Household .....	3-3
3-I.E.	Spouse, Cohead, and Other Adult .....	3-3
3-I.F.	Dependent .....	3-3
	Joint Custody of Dependents.....	3-4
3-I.G.	Full-Time Student.....	3-4
3-I.H.	Elderly and Near-Elderly Persons, and Elderly Family .....	3-5
3-I.J.	Guests .....	3-5
3-I.K.	Foster Children and Foster Adults .....	3-5
3-I.L.	Absent Family Members.....	3-5
	Absent Students.....	3-6
	Absences Due to Placement in Foster Care.....	3-6
	Absent Head or Spouse .....	3-6
	Individuals Confined for Medical Reasons .....	3-6
	Return of Permanently Absent Family Members.....	3-6
3-I.M.	Live-In Aide .....	3-6
PART II:	BASIC ELIGIBILITY CRITERIA.....	3-8
3-II.A.	Income Eligibility and Targeting .....	3-8
	Income Limits.....	3-8
	Using Income Limits for Eligibility.....	3-8
3-II.B.	Suitability as a Tenant.....	3-8
	Screening for Eligibility and Suitability .....	3-9
PART III:	DENIAL OF ADMISSION .....	3-10
3-III.A.	Overview .....	3-10
3-III.B.	Denial of Admission .....	3-10
	Previous Behavior .....	3-11
	Other Reasons for Denial of Assistance .....	3-12

**Chapter 4**

**APPLICATIONS, WAITING LIST AND TENANT SELECTION**

THE APPLICATION PROCESS..... 4-2

4-A. Overview ..... 4-2

4-B. Applying for Assistance ..... 4-2

4-C. Placement on the Waiting List..... 4-2

    Ineligible for Placement on the Waiting List ..... 4-2

    Eligible for Placement on the Waiting List..... 4-2

4-D. Organization of the Waiting List ..... 4-3

4-E. Target Population and Property Specific Waiting Lists ..... 4-3

4-F. Per Unit Vacancy Waitlist ..... 4-3

4-G. Reporting Changes in Family Circumstances..... 4-3

    Removal from the Waiting List ..... 4-4

TENANT SELECTION..... 4-5

4-H. Selection ..... 4-5

    Order of Selection..... 4-5

4-I. Notification of Selection ..... 4-6

4-J. The Application Interview ..... 4-6

4-K. Final eligible Determination ..... 4-7

**Chapter 5**  
**Occupancy Standards and Unit Offers**

OCCUPANCY STANDARDS ..... 5-1

5-A. Overview ..... 5-1

5-B. Determining Unit Size ..... 5-1

5-C. Exceptions to Occupancy Standards ..... 5-2

    Types of Exceptions ..... 5-2

UNIT OFFERS ..... 5-2

5-D. Overview ..... 5-2

5-E. Refusals of Unit Offers ..... 5-4

5-F. Accessible Units ..... 5-5

## LIHTC ACOP -Table of Contents

---

### Chapter 6 INCOME AND SUBSIDY DETERMINATIONS

PART I:	ANNUAL INCOME.....	6-1
6-I.A.	Overview .....	6-2
6-I.B.	Household Composition and Income .....	6-2
6-I.C.	Calculating Annual Income .....	6-2
	Anticipating Annual Income .....	6-2
6-I.D.	Earned Income.....	6-3
6-I.E.	Business and Self Employment Income.....	6-4
	Independent Contractors .....	6-5
	Business Expansion.....	6-5
	Capital Indebtedness .....	6-5
	Negative Business Income .....	6-5
	Withdrawal of Cash or Assets from a Business .....	6-5
	Co-owned Businesses .....	6-6
	Assets Owned by a Business Entity .....	6-6
6-I.F.	Periodic Payments .....	6-6
	Lump-Sum Payments for the Delayed Start of a Periodic Payment.....	6-6
	Retirement Account.....	6-7
	Social Security Benefits.....	6-7
	Alimony and Child Support.....	6-7
6-I.G.	Nonrecurring Income.....	6-7
6-I.H.	Welfare Assistance .....	6-8
6-I.I.	State Payments to Allow Individuals with Disabilities to Live at Home.....	6-9
6-I.J.	Civil Rights Settlements .....	6-10
6-I.K.	Additional Exclusions From Annual Income .....	6-10
PART II:	ASSETS.....	6-17
6-II.A.	Overview .....	6-17
6-II.B.	Assets Disposed of for Less Than Fair Market Value.....	6-17
6-II.C.	Asset Inclusions and Exclusions .....	6-18
6-II.D.	Determining Income From Assets .....	6-25

**LIHTC ACOP -Table of Contents**

---

**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).....	7-2
7-I.D.	Third-Party Written and Oral Verification .....	7-3
	Written Third-Party Verification .....	7-3
	Written Third-Party Verification Form .....	7-3
	Oral Third-Party Verification .....	7-4
7-I.E.	Self-Certification .....	7-4
PART II:	VERIFYING FAMILY INFORMATION .....	7-6
7-II.A.	Verification of Legal Identity .....	7-6
7-II.B.	Social Security Numbers .....	7-6
7-II.C.	Documentation of Age.....	7-7
7-II.D.	Family Relationships .....	7-7
	Marriage .....	7-7
	Separation or Divorce .....	7-8
	Absence of Adult Member.....	7-8
	Foster Children and Foster Adults .....	7-8
7-II.E.	Verification of Student Status.....	7-8
7-II.F.	Citizenship or Eligible Immigration Status.....	7-9
	U.S. Citizens and Nationals .....	7-9
	Eligible Immigrants .....	7-9
7-II.G.	Verification of Preference Status.....	7-9
PART III:	VERIFYING INCOME AND ASSETS.....	7-11
7-III.A.	Earned Income .....	7-11
7-III.B.	Business and Self Employment Income.....	7-11
7-III.C.	Periodic Payments and Payments In Lieu of Earnings.....	7-12
	Social Security/SSI Benefits .....	7-12
7-III.D.	Alimony or Child Support.....	7-12
7-III.E.	Assets and Income from Assets.....	7-13
	Assets Disposed of for Less than Fair Market Value .....	7-13
7-III.F.	Net Income from Rental Property .....	7-13
7-III.G.	Retirement Accounts .....	7-14
Exhibit 7-1:	Summary of Documentation Requirements for Noncitizens .....	7-15

**LIHTC ACOP -Table of Contents**

---

**Chapter 8  
LEASING AND INSPECTIONS**

**PART I: LEASING** ..... 8-1

- 8-I.A. Overview ..... 8-1
- 8-I.B. Lease Orientation ..... 8-1
- 8-I.C. Execution of Lease ..... 8-2
- 8-I.D. Modification to the Lease ..... 8-2
  - Modifications to the lease form ..... 8-2
  - Other Modifications ..... 8-3
- 8-I.E. Security Deposits ..... 8-3
- 8-I.F. Payments Under the Lease ..... 8-4
  - Late Fees and Nonpayment ..... 8-5
  - Maintenance and Damage Charges ..... 8-5

**PART II: INSPECTIONS** ..... 8-6

- 8-II.A. Overview ..... 8-6
- 8-II.B. Types of Inspections ..... 8-6
  - Move in Inspections ..... 8-6
  - Move-Out Inspections ..... 8-6
  - Annual Inspections ..... 8-6
  - Special Inspections ..... 8-6
  - Other Inspections ..... 8-7
- 8-II.C. Notice and Scheduling of Inspections ..... 8-7
  - Notice of Entry ..... 8-7
  - Scheduling of Inspections ..... 8-7
  - Attendance at Inspections ..... 8-8
- 8-II.D. Inspection Results ..... 8-8
  - Emergency Repairs ..... 8-8
  - Non-emergency Repairs ..... 8-9
  - Resident-Caused Damages ..... 8-9
  - Housekeeping ..... 8-9

**LIHTC ACOP -Table of Contents**

---

**Chapter 9  
REEXAMINATIONS**

**ANNUAL REEXAMINATIONS**

9-A.	Overview .....	9-1
9-B.	Scheduling Annual Reexaminations .....	9-1
	Notification of and Participation in the Annual Reexamination Process .....	9-2
9-C.	Conducting Annual Reexaminations.....	9-2
	Change in Unit Size .....	9-3
	Criminal Background Checks .....	9-3

**INTERIM REEXAMINATIONS..... 9-4**

9-D.	Overview .....	9-4
9-E.	Changes in Family and Household Composition .....	9-4
	New Family Members Not Requiring Approval.....	9-4
	New Family and Household Members Requiring Approval .....	9-4
	Departure of a Family or Household Member .....	9-5
	Required Reporting.....	9-5
9-F.	Notification of New Tenant Rent.....	9-5

**LIHTC ACOP -Table of Contents**

---

**Chapter 10  
PETS**

PART I:	ASSISTANCE ANIMALS.....	10-1
	10-I.A. Overview .....	10-1
	10-I.B. Approval of Assistance Animals.....	10-2
	10-I.C. Care and Handling.....	10-2
PART II:	PET POLICIES FOR ALL DEVELOPMENTS .....	10-3
	10-II.A. Overview .....	10-3
	10-II.B. Management Approval of Pets.....	10-3
	Registration of Pets.....	10-3
	Pet Agreement .....	10-3
	10-II.C. Standards for Pets.....	10-3
	10-II.D. Pet Rules .....	10-4
	Pet Area Restrictions .....	10-4
	Cleanliness .....	10-4
	Alterations to Unit .....	10-4
	Noise.....	10-4
	Pet Care .....	10-4
	Responsible Parties.....	10-4
	Pets Temporarily on the Premises.....	10-5
	Pet Removal.....	10-5

## LIHTC ACOP -Table of Contents

---

### Chapter 11 LEASE TERMINATIONS

TERMINATION BY TENANT.....	11-1
11-A. Tenant Chooses to Terminate the Lease .....	11-1
TERMINATION BY HACSB .....	11-1
11-B. Overview .....	11-1
11-C. Failure to Accept HACSB’s Offer of a Lease Revision .....	11-1
11-D. Lifetime Registered Sex Offenders .....	11-2
11-E. Death of a Sole Family Member .....	11-2
11-F. Lease Provisions.....	11-2
Drug Crime on or off the Premises .....	11-2
Illegal Use of a Drug.....	11-2
Threat to Other Residents .....	11-3
Alcohol Abuse .....	11-3
Other Serious or Repeated Violations of Material Terms Of the Lease .....	11-3
Other Good Cause .....	11-5
Family Absence from Unit .....	11-6
11-G. Criteria for Deciding to terminate Tenancy.....	11-6
Evidence .....	11-6
Consideration of Circumstances.....	11-7
11-H. Terminations Related to Domestic Violence, Dating Violence Stalking, or Sexual Assault.....	11-8
VAWA Protections Against Termination.....	11-8
Limitations on VAWA Protections .....	11-8
Documentation of Abuse.....	11-9
11-I. Lease Termination Notice.....	11-9
11-J. Eviction .....	11-9

**LIHTC ACOP -Table of Contents**

---

**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 Review Process.....	12-1
	Notice of Denial .....	12-1
	Scheduling an Informal Review .....	12-1
	Conducting an Informal Review.....	12-2
	Informal Review Decision .....	12-2
PART II:	GRIEVANCE PROCEDURES FOR LIHTC RESIDENTS .....	12-3
12-II.A.	Requirements .....	12-3
12-II.B.	Definitions.....	12-3
	Request for a Hearing.....	12-3
	Scheduling of Hearings .....	12-3
12-II.C.	Selection of Hearing Officer/Panel .....	12-3
12-II.D.	Procedures Governing the Hearing .....	12-4
	Decision Without Hearing.....	12-4
	Failure to Appear .....	12-5

## 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.

#### **1-C. 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, California Tax Credit Allocation Compliance Manuals, HUD handbooks and guidebooks, notices and applicable state and local laws.

#### **1-D. 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 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.
  - Have substantial income to pay the monthly LIHTC maximum rent
  - 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 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.
- Applicants for Restricted Area “Downtown” Workforce housing must, in addition to the above, have employment in the designated geographical region and a minimum annual income of \$25,000.

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 requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit.

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

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

#### **Family**

A family is defined as the people who will reside in the LIHTC unit as tenants whose income and assets are included in eligibility determinations and who have legal right to occupancy under the terms of the lease.

#### **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**

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault or stalking, HACSB must ensure that the victim retains assistance.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, HACSB is bound by the court's determination of which family members continue tenancy.

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.

In order to be considered a remaining member of a tenant family, any household member(s) who were not part of the original lease, must have been added to the lease and occupied the subsidized unit for a minimum of 12 months prior to the departure of the Head of Household.

### **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.

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

*A family may have a spouse or co-head*

*A marriage partner/spouse* 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.

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

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

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

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

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides.

### **Joint Custody of Dependents**

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

### **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.

#### **Elderly Family**

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

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

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

A guest can remain in the assisted 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 is expected to last 40 consecutive days). Upon request, families must identify and provide documentation of the residence to which the guest will return. In the absence of such documentation, the guest will be considered an unauthorized household member. The PHA may terminate assistance for families that allow unauthorized household members.

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

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

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

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**

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. Members 18 years of age or older who are attending school away from home must still attend required household appointments. Should they not be able or willing to attend appointments they will be considered absent family members and will be removed from the 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.

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**

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**

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**

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.L. 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 i to make the program accessible to and usable by the family member with disabilities.

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.

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

Continued approval is subject to HACSB verification at each annual reexamination if already housed. In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is: 1) Not obligated for the support of the person(s) needing the care and; 2) Would not be living in the unit except to provide the necessary supportive services. The proposed live-aide must pass the HACSB eligibility process for live-in aides.

HACSB will not approve a particular person as a live-in aide, and may withdraw prior approval if: The person has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; or the person has committed drug-related criminal activity or violent criminal activity; or the person currently owes rent or other amounts to HACSB.

## **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.

Income will also be used to determine whether an applicant is able to pay the monthly rent for a particular LIHTC unit. An applicant must demonstrate the ability to pay the monthly rent for a period of not less than 12 months following initial occupancy. Ability to pay is defined as monthly rent not to exceed 60% of a household's gross income, or the ability to pay based on on-going rental subsidy, such as Section 8.

### **3-II.B. 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 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

- Compliance with any other essential conditions of tenancy

## **Screening for Eligibility and 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.

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

HACSB will perform criminal background checks on all adult household members through the FBI Livescan fingerprinting system. Such background checks will reference past performance in meeting financial obligations, especially rent, disturbances of neighbors, destruction of property, living or housekeeping habits at prior residences that may affect the health, safety and welfare of others, or cause damage to the premises. Information may be gathered in the following ways:

- HACSB and landlord references for the past five years. 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 resident, but a poor credit rating may.
- Applicants with no rental payment history may 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 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 suitability as a tenant. (e.g. rent receipts, cancelled checks, etc.)
- 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.

## PART III: DENIAL OF ADMISSION

### 3-III.A. OVERVIEW

A family that does not meet the eligibility or suitability criteria the family will be denied 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.

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

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

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

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.

*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.

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. 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 below. 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

HACSB **will** deny assistance to an applicant family if:

Any family member has been evicted from HACSB housing or any federal assisted housing in the last five years.

HACSB has ever terminated assistance or tenancy for any member of the family for non-compliance.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any PHA in connection with any housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward HACSB personnel or its contractors.

*Abusive or violent behavior towards HACSB personnel or its contractors* 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.

### **Other Reasons for Denial of Assistance**

HACSB **will** deny assistance to an applicant family if:

The family does not provide information that HACSB determines is necessary in the administration of the program.

The family does not provide complete and true information to HACSB.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any housing program.

The family has breached the terms of a repayment agreement entered into with HACSB, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward HACSB personnel or its contractors.

*Abusive or violent behavior towards HACSB personnel or its contractors* 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.

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.

## **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. HACSB will place all applicants that apply for the LIHTC units on the corresponding waiting list.

HACSB must comply with all equal opportunity requirements, and it must affirmatively further fair housing goals in the administration of this 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 HACSB 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 APPLICATION PROCESS**

### **4-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-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 this 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 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 for any LIHTC wait list that is accepting applications. Family may request a paper application from HACSB's main office if a reasonable accommodation is needed.

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

Applicants for whom the waiting list is open will 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.

#### **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. The notice will specify the reasons for ineligibility.

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

The online application system provides immediate notification of receipt of application when complete applications are submitted.

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

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.

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

HACSB's waiting lists will 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 policy.

Waiting lists will contain the following information for each applicant listed:

- Name and social security number of each member
- 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 each household member

HACSB maintains waitlists by property, target population (senior, homeless) or on a per unit vacancy basis depending on property. Properties that have overlaid Section 8 Project Based subsidies have waitlists that are managed in accordance with policies in HACSB's Section 8 Housing Choice Voucher Administrative Plan.

#### **4-E. TARGET POPULATION AND PROPERTY SPECIFIC WAITING LISTS**

HACSB will generally leave population specific, or property specific waitlists open for applications.

#### **4-F. PER UNIT VACANCY WAITLIST**

Properties for which vacancies are advertised in anticipation of a vacancy are advertised on Craigslist and the Housing Authority website. Initial applicants are placed on the waitlist, upon filling the vacant unit with a new tenant the waitlist is purged and interested applicants must reapply for future vacancies.

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

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

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.

**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 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.

## TENANT SELECTION

### 4-H. SELECTION

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

Local preferences applicable to all waitlists are as follows

**(2 points) Residency Preference:** Families who live, work, or who have been hired to work within the South coast region of Santa Barbara County. Work or hired to work will be defined as 20 hours a week for pay. Minimum of 20 hours of work per week must be performed at a location within the jurisdiction of HACSB.

**(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) and families residing in a HACSB locally financed or HACSB managed property that have a rent burden exceeding 50% of household gross annual income

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:

#### 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 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 can afford the monthly rent, and 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-I. NOTIFICATION OF SELECTION**

When the family has been selected from the waiting list, HACSB will notify the family by first class mail, e-mail or via the Housing Authority application portal Rent Café if available.

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-J. THE APPLICATION INTERVIEW**

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. 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.

If the family is unable to attend a scheduled interview, the family must contact HACSB in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, their applications will be cancelled based on the family's failure to appear 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-K. 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 will be notified of their eligibility as well as an approximate date of occupancy insofar as that date can be reasonably determined if a unit is available. 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 of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity to contest such determination.

## Exhibit A

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

#### **Cottage Gardens**

#### **17 One-Bedroom Senior Housing Units**

*HACSB does not maintain a Cottage Gardens waitlist. HACSB will advertise unit vacancies to the public when there is an actual or anticipated vacancy.*

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**

*Interested applicants apply to the Garden Court Property Specific Waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

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**

*Interested applicants apply to the El Carrillo Property Specific Waitlist.*

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**

*Interested applicants apply to the Artisan Court property Specific waitlist*

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**

*Interested applicants apply to the Bradley Studios property specific waitlist.*

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 Senior Housing Units**

*Interested applicants apply to the Senior Housing-Subsidized Project Based waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

11 Unit shall be occupied by households at or below 50% AMI.

95 Units shall be occupied by households at or below 60% AMI.

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

*HACSB does not maintain a Villa Santa Fe II waitlist. HACSB will advertise unit vacancies to the public when there is an actual or anticipated vacancy.*

12 Units shall be occupied by households at or below 50% AMI.

47 Units shall be occupied by households at or below 60% AMI.

**Grace Village**

*Property and Waitlist managed by Caring Housing Ministries. For Project-Based Section 8 units, interested applicants apply to the Senior Housing-Subsidized waitlist and waitlist policies are addressed in the Section 8 Administrative Plan.*

Units shall be occupied by households at or below 60% AMI

**Gardens on Hope      89 Studio Senior Housing Units**

*Interested applicants apply via Gardens on Hope Waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

9 units shall be occupied by households at or below 30% AMI

32 units shall be occupied by households at or below 40% AMI

48 units shall be occupied by households at or below 60% AMI

**Johnson Court      16 Studio Housing Units for Veterans**

*Interested applicants apply to the Johnson Court waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

2 units shall be occupied by households at or below 30% AMI  
12 units shall be occupied by households at or below 40% AMI  
2 units shall be occupied by households at or below 50% AMI

**Vera Cruz Village      28 Studio Units**

*Interested applicants apply to the Vera Cruz Village waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan.*

12 units shall be occupied by households at or below 30% AMI.  
12 units shall be occupied by households at or below 45% AMI.  
2 units shall be occupied by households at or below 50% AMI.  
2 units shall be occupied by households at or below 60% AMI.

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 Garden Court on De La Vina and Gardens on Hope

Applicants for Garden Court or Gardens on Hope must be 62 years of age or older and demonstrate a need for the supportive services offered at the projects. Applicant certification and verification of the need for supportive services will be required for each applicant.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

#### ***Additional preferences***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.

8 Points - HACSB Clients-Participants in the Housing Authority of the City of Santa Barbara's (HACSB) Section 8 program or who currently reside in housing units owned and/or operated by HACSB.

4 Points - Homeless/At Risk of Homelessness- clients who are homeless or at risk of being homeless who have a referral from a Southern Santa Barbara County social service agency evidencing the applicant's need for the housing and services available at the properties. All referrals will require a written agreement from the referring agency and/or case manager to provide for at least one (1) year case/crisis management services from the date that the client is housed.

## Exhibit C

### Admissions Guidelines for El Carrillo

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

Homeless

Do not own, lease or control, or regularly use a vehicle.

Single occupancy

Willingness to participate in on site supportive services if needed

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

*2 Points- Homeless: Persons who are currently homeless*

*2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.*

In addition to the suitability screening outlined in Chapter 3, El Carrillo applicants are subject to a suitability assessment to be administered by the on-site supportive service provider. The assessment will be used in addition to landlord/shelter verifications and other suitability criteria, to identify the client's ability to adhere to lease obligations.

## Exhibit D

### Admission Guidelines for Artisan Court

Artisan Court will house three specific groups: youth aging out of foster care (transition aged youth or TAY), special needs/disabled, and low-income restricted area workers.

***Special Admissions for Transition Aged Youth:*** Up to 15 units of Artisan Court shall be allocated for transition aged youth, defined as youth, ages 18-21. 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 a program waiting list, however referrals will be submitted through HACSB's online waitlist system. 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.

***Special Needs/disabled:*** Up to 26 units shall be designated for special needs individuals. Applicants will be selected from the Artisan Court waiting list.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle. Non-elderly, non-disabled, Single applicants will be ranked below all other applicants.

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 PBV waiting list, and who meet all eligibility requirements set forth in this policy as well as qualify for Section 8 assistance per HUD guidelines.
- ***Continuum of Care (CoC):*** 4 units at Artisan Court shall be selected to receive rental subsidy in the form of Continuum of Care assistance. Recipients must be chronically homeless, disabled individuals, referred by the Coordinated Entry System. CoC 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.

**Restricted Area Workforce Housing:** Up to 22 units shall be designated for workers employed within the Housing Authority's designated boundaries. Applicants will be selected from the Artisan Court Waitlist.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

- 2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.
- 2 Points- Restricted Area Workforce - All employed household members must report to work, for all employment, within the restricted area boundaries as outlined in Exhibit I

## Exhibit E

### Admission Guidelines for Bradley Studios

Bradley Studios will house special needs/disabled applicants, youth aging out of foster care (transition aged youth or TAY), and low-income restricted area workers.

**Special Needs/disabled:** Up to 26 units shall be designated for special needs individuals. Applicants will be selected from the Bradley Studios waiting list.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle. Non-elderly, non-disabled, single applicants will be ranked below all other applicants.

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 this policy as well as qualify for Section 8 assistance per HUD guidelines.
- **Continuum of Care (CoC):** 4 units at Bradley Studios shall be selected to receive rental subsidy in the form of Continuum of Care assistance. Recipients must be chronically homeless, disabled individuals, referred by the Coordinated Entry System. CoC 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.

**Restricted Area Workforce Housing:** Up to 22 units shall be designated for workers employed within the Housing Authority's designated boundaries. Applicants will be selected from the Bradley Studios waiting list.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.  
2 Points- Restricted Area Workers-All employed household members must report to work, for all employment, within the restricted area boundaries as outlined in Exhibit I

## Exhibit F

### Admissions Guidelines for Villa Santa Fe I and Villa Santa Fe II

#### **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. Applicants (head or spouse) for this property must be 62 years of age or older. 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. Applicants will be selected from the Senior Housing – Subsidized Waitlist. In addition to waitlist ranking of preference points and date and time as outlined in the Section 8 Administrative Plan, suitability criteria for admission as outlined in this Plan remain 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 (head or spouse) for this property must be 62 years of age or older. All applicants must meet the income limit requirement of 60% of AMI or below and be able to afford the monthly rent.

HACSB does not maintain a Villa Santa Fe II waitlist. HACSB will advertise unit vacancies to the public when there is an actual or anticipated vacancy.

Advertisement will include the unit size, monthly rental amount, date of anticipated occupancy, general eligibility criteria and notification that applications are being accepted. Notification of vacancies will be posted on HACSB's website, craigslist, and/or other apartment rental websites with instructions on how to apply. Applications received will be and time stamped.

Applicants who meet the minimum criteria for the available unit, e.g. unit size, designated population, unit designated Area Median Income, vehicle restriction, etc., will be ranked based on date and time of application and the following preferences:

**(2 points) Residency Preference:** Families who live, work, or who have been hired to work within the South coast region of Santa Barbara County. Work or hired to work will be defined as 20 hours a week for pay. Minimum of 20 hours of work per week must be performed at a location within the jurisdiction of HACSB.

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

HACSB reserves the right to select families outside of the above preference ranking in order 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).

Waitlist will be purged once the advertised unit is filled.

## Exhibit G

### Admissions Guidelines for Cottage Gardens

HACSB does not maintain a Cottage Gardens waitlist. HACSB will advertise unit vacancies to the public when there is an actual or anticipated vacancy.

Advertisement will include the unit size, monthly rental amount, date of anticipated occupancy, general eligibility criteria and notification that applications are being accepted. Notification of vacancies will be posted on HACSB's website, craigslist, and/or other apartment rental websites with instructions on how to apply. Applications received will be and time stamped.

Applicants who meet the minimum criteria for the available unit, e.g. unit size, designated population, unit designated Area Median Income, vehicle restriction, etc., will be ranked based on date and time of application and the following preferences:

**(2 points) Residency Preference:** Families who live, work, or who have been hired to work within the South coast region of Santa Barbara County. Work or hired to work will be defined as 20 hours a week for pay. Minimum of 20 hours of work per week must be performed at a location within the jurisdiction of HACSB.

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

HACSB reserves the right to select families outside of the above preference ranking in order 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).

Waitlist will be purged once the advertised unit is filled.

## Exhibit H Johnson Court

Interested applicants apply to the Johnson Court waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan. Applicants must be a US Veteran and have been separated from service under other than dishonorable discharge. Property is 100% Project Based Section 8, so in addition to being a US Veteran applicants must also be 62 years of age or older, or have a verifiable disability, or consist of two household members.

8 units designated for homeless US Veterans  
5 units designated for US Veterans with Special Needs  
3 units designated for US Veterans

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.  
-21 Points- Non-elderly, non-disabled, Single applicants

## Exhibit I Vera Cruz Village

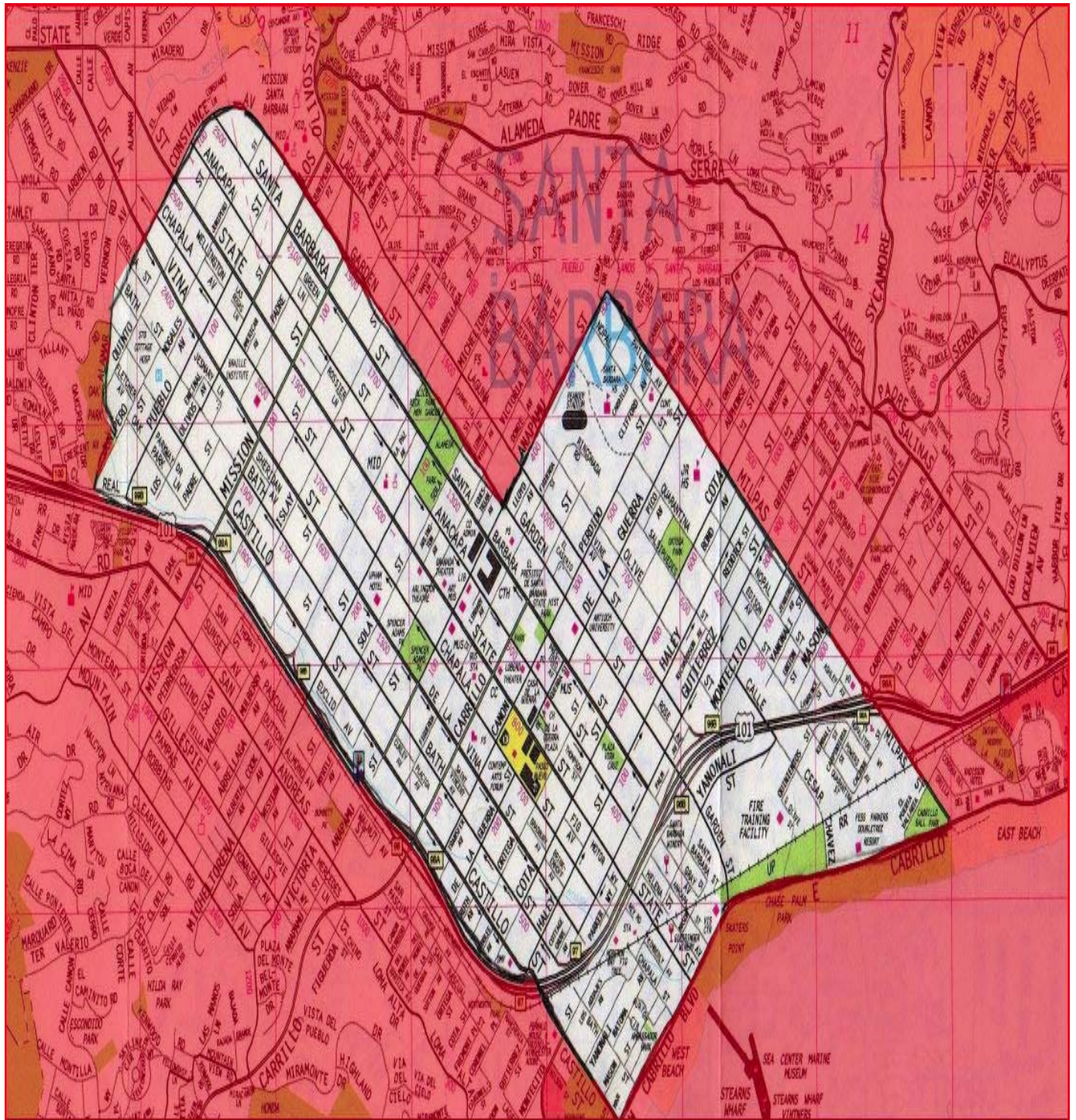
Interested applicants apply to the Vera Cruz waitlist. Waitlist policies are addressed in the Section 8 Administrative Plan. Property is 100% Project Based Section 8, so applicants must also be 62 years of age or older, or have a verifiable disability, or consist of two household members.

***Preference Points assigned to preferences listed in Section 4-II.A of this chapter.***

- 2 Points- No Vehicle-Persons who do not own, lease or control, or regularly use a vehicle.
- 2 Points- Homeless/At Risk of Homelessness- clients who are homeless or at risk of being homeless including residing in transitional housing.
- 21 Points- Non-elderly, non-disabled, Single applicants

# Exhibit J

## Restricted Area Workforce Boundaries



## 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).

#### OCCUPANCY STANDARDS

##### 5-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-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:

<b>BEDROOM SIZE</b>	<b>MINIMUM NUMBER OF PERSONS</b>	<b>MAXIMUM NUMBER OF PERSONS</b>
0	1	2
1	1	3
2	2	5
3	3	7
4	4	7

Exceptions to these standards are applicable for occupancy of units at El Carrillo. Maximum Occupancy will be 1 person per studio at El Carrillo Developments.

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

#### **Types of Exceptions**

HACSB will consider granting exceptions to the occupancy standards when requested as reasonable accommodation.

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

In the case of a request for exception as a reasonable accommodation, HACSB will encourage the resident to make the request in writing. 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.

### **UNIT OFFERS**

#### **5-D. OVERVIEW**

HACSB has adopted a “one offer plan” for offering units to applicants.

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-E. 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.

The family is currently in a lease that they cannot break.

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**

If an applicant rejects the first unit offer without good cause, the applicant will remain on the waitlist, but the date and time of application will be modified to match the date the applicant refused the offer. When an applicant rejects the second or final unit offer without good cause, HACSB will remove the applicant’s name from the waiting list.

If the applicant’s name is removed from the waitlist, 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-F. 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.

## Chapter 6

### 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.

#### PART I: ANNUAL INCOME

##### 6-I.A. OVERVIEW [24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources (other than those specifically excluded in 24 CFR 5.609(b)) by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income (other than those sources specifically excluded in 24 CFR 5.609(b)) by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. However, when a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, HACSB must use the gross amount of the income, prior to the reduction, to determine a family's annual income [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH

2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of income and assets.

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

Income received by all family members must be counted unless specifically excluded by the regulations. The chart below summarizes how family composition affects income determinations.

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].  All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)].  All sources of unearned income, except those specifically excluded by the regulations, are included.

**6-I.C. CALCULATING ANNUAL INCOME**

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

**Anticipating Annual Income [24 CFR 5.609(c)(1)]**

At initial occupancy and for an interim reexamination of family income, HACSB is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date.

When HACSB cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), 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.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how HACSB annualized projected income.

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

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

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

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

### ***Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]***

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)]. Income earned as a day laborer is not considered nonrecurring income.

A *seasonal worker* is defined as an individual who is hired into a short-term position ( e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income.

HACSB will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

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

### ***Military Pay***

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

### ***Earnings of a Minor [24 CFR 5.609(b)(3)]***

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

### ***Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]***

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. 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].

## **6-I.E. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]**

Annual income includes “net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

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

## **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)]. This may include individuals such as third-party delivery and transportation service providers and “gig workers” like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income.

## **Business Expansion**

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

*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.

*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**

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.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, 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**

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

### **Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

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

Periodic payments are forms of income received on a regular basis.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b), and thus they are included in annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

HACSB will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

### **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

### **Social Security Benefits [Notice PIH 2018-24]**

HACSB is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, HACSB must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

### **Alimony and Child Support**

HACSB will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement unless the family certifies and HACSB verifies that the payments are not being made.

### **6-I.G. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly).

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

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

### **Overview**

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

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

HACSB must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided

as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

### ***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.I. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family’s assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family’s assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

#### **6-I.J. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount (\$50,000 for 2024, and \$51,600 for 2025), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and HACSB or owner chooses not to conduct the examination.

#### **6-I.K. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b); FR Notice 1/31/2024]**

Other exclusions contained in 24 CFR 5.609(b) and FR Notice 1/31/24 that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages are included in annual income [Notice PIH 2023-27].

- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family’s annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income.
- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(i)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for HACSB or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.609 I(12)(ii)].

Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

#### HACSB Policy

HACSB defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

HACSB defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, HACSB will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with HACSB’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. 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)). This exclusion also applies to assets.
- (b) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.
- (c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.
  - Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).
- (d) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506).
- (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)(1)).
- (g) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 which was reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2)).

- (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 Section 6).
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407–1408).
- (m) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).
- (n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.
- (o) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spinal bifida (42 U.S.C. 12637(d)).
- (p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.
- (q) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).
- (r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion also applies to assets.
- (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) This exclusion also applies to assets.
- (t) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau

of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327 (as amended)).

- (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 that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).
- (w) Any amounts in an “individual development account” are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).
- (x) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.
- (y) Distributions from an ABLÉ account, distributions from and certain contributions to an ABLÉ account established under the ABLÉ Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.
- (z) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).
- (aa) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.
- (ab) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita

payments as described in IRS Notice 2013-1. The first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

- (ac) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

## PART II: ASSETS

### 6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapters 3 and 12.

Income from assets is always anticipated, irrespective of the income examination type.

#### HACSB Policy

HACSB generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. HACSB will 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.

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.

### 6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value [Notice PIH 2023-27].

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.

### ***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. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### ***Family Declaration***

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.

## **6-II.C. ASSET INCLUSIONS AND EXCLUSIONS**

### ***Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]***

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required

for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds the HUD-published threshold amount (adjusted annually and published in HUD's current year Inflation-Adjusted Values tables). When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets.

- The threshold amount is \$50,000 for 2024, and \$51,600 for 2025.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
<p>Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</p> <p>Furniture, carpets, linens, kitchenware</p> <p>Common appliances</p> <p>Common electronics (e.g., radio, television, DVD player, gaming system)</p> <p>Clothing</p> <p>Personal effects that are not luxury items (e.g., toys, books)</p> <p>Wedding and engagement rings</p> <p>Jewelry used in religious/cultural celebrations and ceremonies</p> <p>Religious and cultural items</p> <p>Medical equipment and supplies</p> <p>Health care–related supplies</p> <p>Musical instruments used by the family</p> <p>Personal computers, phones, tablets, and related equipment</p> <p>Professional tools of trade of the family, for example professional books</p> <p>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</p> <p>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</p>	<p>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</p> <p>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</p> <p>Recreational boat/watercraft</p> <p>Expensive jewelry without religious or cultural value, or which does not hold family significance</p> <p>Collectibles (e.g., coins/stamps)</p> <p>Equipment/machinery that is not used to generate income for a business</p> <p>Items such as gems/precious metals, antique cars, artwork, etc.</p>

### ***Checking and Savings Accounts [Notice PIH 2023-27]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's current year Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

### ***ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. HACSB must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net

family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii); Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. HACSB must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and HACSB chooses not to conduct the examination.

HACSB Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, HACSB must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;

- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

#### ***Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]***

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

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust continues to be excluded from net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Further, where an irrevocable trust is excluded from net family assets, HACSB must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the

property is held in the trust. HACSB must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables (\$50,000 for 2024, and \$51,600 for 2025), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

- A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

#### ***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

#### ***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered \$0.

#### ***Asset Exclusions [24 CFR 5.603(b)]***

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

#### **6-II.D. DETERMINING INCOME FROM ASSETS**

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are

excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets.

### ***Net Family Assets***

*Net family assets* are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

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.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

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

Income from assets must be included in calculations regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

HACSB may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. The threshold amount is \$50,000 for 2024, and \$51,600 for 2025.

HACSB may not calculate or include any imputed income from assets when net family assets are less than or equal to the HUD-published threshold amount [24 CFR 5.609(b)(1)].

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

When net family assets exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, HACSB may not rely on self-

certification. If actual returns can be calculated, HACSB must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, HACSB must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). Imputed income is calculated by multiplying the net cash value of the asset (found by deducting reasonable costs that would be incurred in disposing of the asset from the market value) by the HUD-published passbook rate. If HACSB can compute actual income from some but not all assets, HACSB must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## 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 an Authorization for Release of Information. The purpose of it 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 household 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/Equifax

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

There are two types of written third-party verification. Written third-party verification and a written third-party verification form. Written third-party 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. A written third-party verification form is a standardized form used to collect information from a third party. HACSB must collect third party verifications.

#### **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 or the family is unable to provide sufficient 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 acceptable only for purposes of clarification. Oral third-party verification should never be used as proof of termination of a source of income.

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, banking account activity, referrals from local shelters and social service agencies, home visits. For those who live outside of the South Coast Region of Santa Barbara, but work or have been hired to work within the region, work will be defined as a minimum of 20 hours per week for pay, worked within the jurisdiction South Coast region of Santa Barbara County. Verification of the location work is performed will be required. Self-Employed or Contract employees must provide verification that a minimum of 20 hours per week is done within the South Coast region of Santa Barbara County. Residency preference will not be granted for applicants who are attending school within the Housing Authority's jurisdiction, who do not meet the living or working criteria previously listed.

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 or receiving Section 8 subsidy: Verified through HACSB records.

Referral for Garden Court/Gardens on Hope Services: Verified through submission of a completed verification form. Clients being referred must demonstrate the need for a minimum of 3 of the services offered to be issued this preference.

## **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.

#### 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:

<b>Unit Size</b>	<b>Security Deposit</b>
Garden Court/Gardens on Hope	\$300
Supportive Services properties	\$1,000
1 Bedroom	\$1000
2 Bedroom	\$1200
3 bedroom	\$1500
4 Bedroom	\$1800
5 Bedroom	\$2000

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 21 days or current California Law 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.

Any balance from move-out charges due to the Housin Authority must be paid within 30 days. If the resident disagrees with the amount charged, the resident has 14 calendar days to dispute the charges and request a meeting with HACSB to discuss the charges.

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.

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 30 day Notice Pay or Quit 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 they wish, 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.

#### ANNUAL REEXAMINATIONS

##### 9-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-B. SCHEDULING ANNUAL REEXAMINATIONS

HACSB has established 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-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. Families must also complete, and sign required CTCAC forms at the annual review and the completion of the annual review.

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.

## **INTERIM REEXAMINATIONS**

### **9-D. 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-E. 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.

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.

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**

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.

### ***Required Reporting***

Families are required to report the following:

- If any household member moves out of the Leased Premises or is deceased.
- Any change in household due to birth, adoption, or court awarded custody of a child.
- Marriage of any household member. \*Marriage does not automatically qualify a new spouse to reside in the unit. They must be determined eligible by HACSB, BEFORE moving into the unit.
- If any household member is arrested, incarcerated, and/or convicted of any type of criminal activity or is required to register as a sex offender. \*Any members required to register as a sex offender will be removed from the lease.
- Any change in household income, employment, student status, or assets since the last recertification.

### **9-I.F. NOTIFICATION OF NEW TENANT RENT**

HACSB will increase the contract rent at the completion of each annual reexamination review to the current published CTCAC rent based on the unit’s Area Median income rent limit.

The LIHTC lease requires HACSB to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective.

A family will receive written notice of a rent change which will include the effective date of the change and the revised tenant rent.

## 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.

#### 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 this Policy.

### **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**

Tenants are required to register their pet/s with HACSB before they are brought onto the premises. Pets will not be approved to reside in a unit until the registration requirements are completed, and the pet has been approved.

Registration includes providing HACSB with a picture of the pet, as well as documentation signed by a licensed veterinarian or state/local authority demonstrating that the pet has received all inoculations required by state or local law, has no communicable disease(s), and is pest-free. Pet owners are required to pay a \$300.00 pet deposit in addition to any other required deposits. The \$300.00 deposit must be either paid in full before the pet is brought onto the premises or paid through a signed payment agreement with minimum installments of \$25.00 per month.

#### **Pet Agreement**

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:

- Prohibition on any animal not permitted under state or local law or code
- A "reasonable person standard" regarding the number of pets allowed. Factors include whether a person of ordinary prudence would be able to adequately care for the animals without creating a nuisance, maintaining sanitation, and ensuring the safety of neighbors.

## **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**

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.

### **Cleanliness**

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**

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**

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**

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**

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**

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 Removal**

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.

## 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 federal, state and local landlord-tenant laws.

This chapter presents the policies that govern voluntary termination of the lease by the family and the termination of the lease by HACSB.

#### TERMINATION BY TENANT

##### 11-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 main office or sent by pre-paid first-class mail, properly addressed.

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.

#### TERMINATION BY HACSB

##### 11-B. 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 comply with all requirements of California law and other applicable programs.

##### 11-C. 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.

#### **11-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-E. DEATH OF A SOLE FAMILY MEMBER**

HACSB must immediately terminate tenancy for deceased single member households.

#### **11-F. LEASE PROVISIONS**

This section addresses provisions for lease termination that will be included in the lease agreement.

##### **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.

*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.

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 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 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 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 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 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.

A household 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-G. CRITERIA FOR DECIDING TO TERMINATE TENANCY**

Even though HACSB may have grounds to terminate a tenancy is not required to do so, 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

HACSB's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

## **11-H. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT**

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 assistance for the LIHTC program.

### **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 tenancy 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)]

#### HACSB Policy

In determining whether a resident 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

#### **Documentation of Abuse [24 CFR 5.2007]**

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.

#### **11-I. 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.

#### **11-J. 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.

## 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 two parts:

Part I: Informal Hearings for LIHTC Applicants. This part outlines the requirements and procedures for informal hearings for LIHTC housing applicants.

Part II: Grievance Procedures for LIHTC Residents. This part outlines the requirements and procedures for handling grievances for LIHTC housing residents for property damage.

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 review.

##### 12-I.B. INFORMAL REVIEW PROCESS

Informal reviews 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 reviews are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project.

Informal reviews 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 review to dispute the decision.

##### Scheduling an Informal Review

A request for an informal review 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 review within 10 business days of the family's request.

### **Conducting an Informal Review**

The informal review 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 review 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 Review Decision**

HACSB will notify the applicant of HACSB's final decision, including a brief statement of the reasons for the final decision.

If the informal review decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

## **PART II: GRIEVANCE PROCEDURES FOR LIHTC RESIDENTS FOR PROPERTY DAMAGE**

### **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 ten (10) 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.