

RESOLUTION 17-856
A RESOLUTION REVISING THE SECTION 8 ADMINISTRATIVE PLAN OF
THE HOUSING AUTHORITY OF THE CITY OF YAKIMA

WHEREAS, The Housing Authority of the City of Yakima (YHA) is required to periodically update its Section 8 Administrative Plan to remain in compliance with Federal Regulations; and

WHEREAS, YHA has found it necessary to amend the entire Section 8 Administrative Plan to conform to all current HUD regulations, policies, and guidelines.

NOW THEREFORE, be it resolved that the Housing Authority of the City of Yakima, in a special meeting, a quorum being present, does hereby adopt the attached revised Section 8 Administrative Plan.

PASSED AND ADOPTED BY THE HOUSING AUTHORITY OF THE CITY OF YAKIMA BOARD OF COMMISSIONERS THIS 21st DAY OF MARCH, 2017.


Chairman, Board of Commissioners

Date 3/21/2017

Attest:


Secretary

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Housing Authority of the City of Yakima or Yakima Housing Authority (YHA) receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The YHA is not a federal department or agency. YHA is a public housing agency (PHA) that is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The YHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The YHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the YHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The YHA. This part includes a description of the YHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE YHA

1-I.A. OVERVIEW

This part explains the origin of the YHA's creation and authorization, the general structure of the organization, and the relationship between the YHA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF THE YHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the YHA, for the jurisdiction defined as the City of Yakima, and in the County of Yakima and Kittias and surrounding area, except as may further be approved by agreements with the Housing Authorities of those municipalities as provided under state and local law.

The officials of a YHA are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the YHA conducts business, ensuring that policies are followed by YHA staff and ensuring that the YHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

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

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

1-I.C. YHA 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 guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

YHA Policy

The mission of the Yakima Housing Authority is "Building Stronger Communities Through our Commitment to Safe and Affordable Housing"

1-I.D. THE YHA'S PROGRAMS

The following programs are included under this administrative plan:

YHA Policy

The Yakima Housing Authority (YHA) is a public housing agency providing affordable housing opportunities for low-income families, the elderly, and persons with disabilities in the community.

The YHA's Administrative Plan is applicable to the operation of the Housing Choice Voucher program including if any property under the Project-based Voucher (PBV) and if and when any RAD Conversions that may occur under the PBV Program.

In addition, the administrative plan addresses policies for the following special programs:

1 Veterans Affairs Supportive Housing (VASH)

Veterans who are receiving case management from the VA are referred to YHA by Veterans Affairs. The VASH program is operated the same as the Housing Choice Voucher program except that:

- To remain eligible the vet must be receiving case management from the VA or have been determined by the VA to no longer need case management services.
- Because the vet is currently receiving a voucher if they are no longer in need of case management, they may transfer to a Housing Choice Voucher without being on the waiting list.

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2. Non Elderly Disabled Vouchers
These vouchers will enable non-elderly disabled persons residing in nursing homes or other health care institutions to transition into the community with appropriate services.
 - Participants must also agree to actively participate in the service planning process to assist in successful transition.
 3. Washington Families Fund (WFF)
YHA designates a certain number of vouchers, not to exceed 20, in a year for use by families moving from transitional housing.
 - Families must be receiving case management
 - Participants are encouraged to apply to the HCV waiting list when it is open.
 4. Family Unification (FUP)
Family Unification Program is tenant based rental assistance where either the children are being removed or unable to be returned due to housing issues, or where a youth is aging out of foster care.

1-I.E. THE YHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the YHA is committed to providing excellent service to HCV program participants – families and owners – in the community. The YHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities that address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program that maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the YHA's mission.

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- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
 - Administer an efficient, high-performing agency through continuous improvement of the YHA’s support systems and commitment to our employees and their development.

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

To administer the Section 8 Program and model the Housing Department on the Vision and Values Statement of the Yakima Housing Authority:

- We are dedicated to serving our customers.
- We value and respect diversity.
- We work as a team.
- We each do all we can.
- We learn, change and improve.
- We focus on results.
- We work with integrity.
- We make Yakima better!

PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the reader in understanding the program.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate

program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

1-II.B. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The YHA is afforded choices in the operation of the program that are included in the YHA's Administrative Plan, a document approved by the board of commissioners of the YHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the YHA's jurisdiction and may also be eligible to move under portability to other PHAs' jurisdictions.

When a family is determined to be eligible for the program and funding is available, the YHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the YHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The YHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

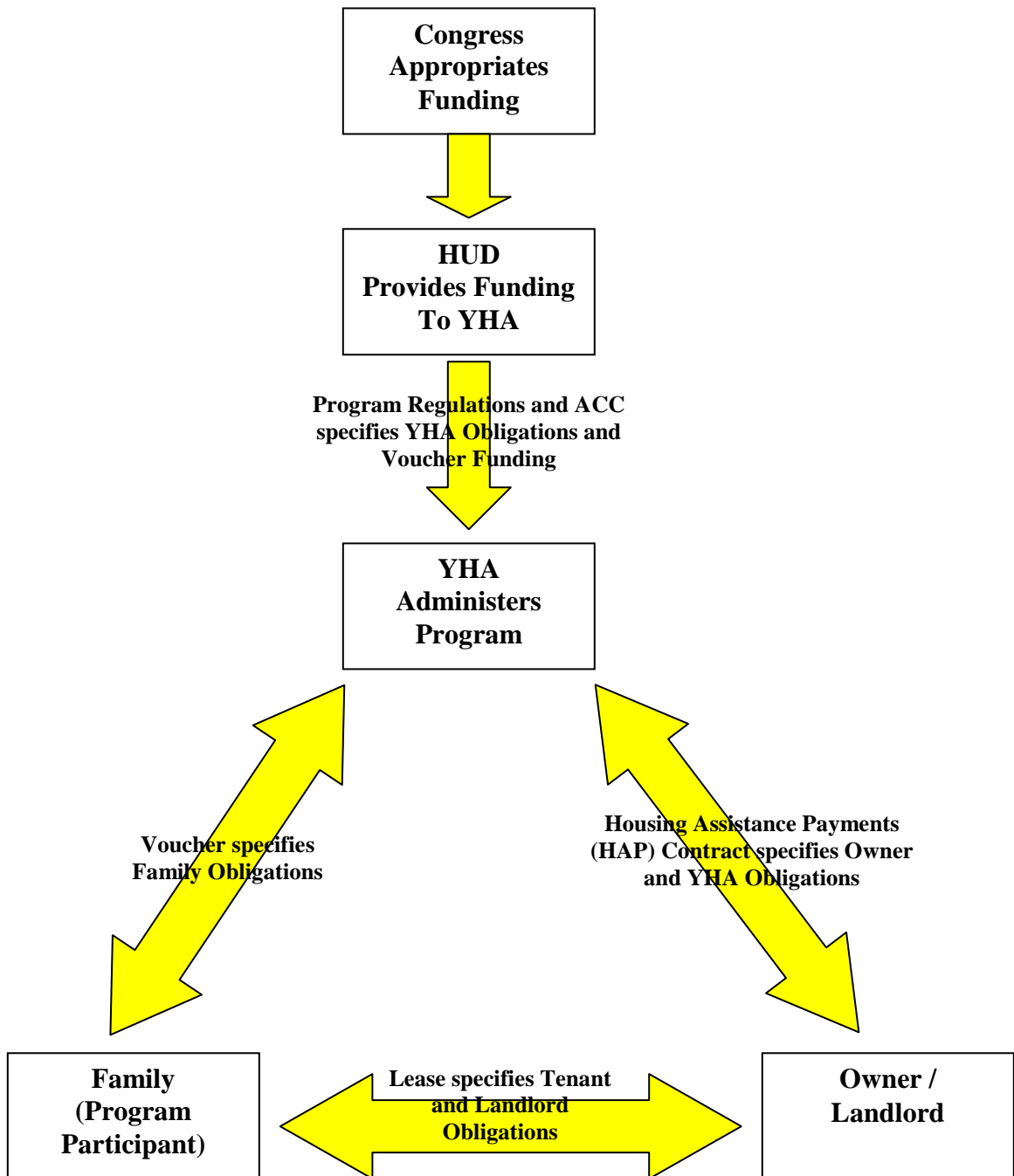
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, the YHA enters into a contractual relationship with HUD. The YHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

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

The chart illustrates key aspects of these relationships.

The HCV Relationships:



What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to YHA;
- Provide technical assistance to YHA on interpreting and applying HCV program requirements;
- Monitor YHA's compliance with HCV program requirements and YHA's performance in program administration.

What does the YHA do?

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

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, Consolidated Annual Contributions Contract, HUD-approved applications for funding, the YHA's Administrative Plan, and other applicable federal, state and local laws.

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
 - The YHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
 - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with the YHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?

The family has the following responsibilities:

- Provide the YHA with complete and accurate information, determined by the YHA to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
- Cooperate in attending all appointments scheduled by the YHA;
- Allow the YHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the YHA and the owner before moving or termination the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the YHA of any changes in family composition;

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- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing programs.

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

PART III. THE HCV ADMINISTRATIVE PLAN

1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

The Administrative Plan is required by HUD. The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the YHA's agency plan. This Administrative Plan is a supporting document to the YHA agency plan, and is available for public review as required by CFR 24 Part 903.

This Administrative Plan is set forth to define the YHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

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

Administration of the HCV program and the functions and responsibilities of YHA staff shall be in compliance with the YHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN (24CFR 982.54)

HUD regulations contain a list of what must be included in the Administrative Plan. The YHA Administrative Plan must cover YHA policies on these subjects:

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- Selection and admission of applicants from the YHA waiting list, including any YHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the YHA waiting list (Chapter 4);
 - Issuing or denying vouchers, including YHA policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the YHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the YHA determines whether to grant extensions or suspensions, and how the YHA determines the length of any extension or suspension (Chapter 5);
 - Any special rules for use of available funds when HUD provides funding to the YHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
 - Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
 - Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
 - Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
 - Providing information about a family to prospective owners (Chapters 3 and 9);
 - Disapproval of owners (Chapter 13);
 - Subsidy standards (Chapter 5);
 - Family absence from the dwelling unit (Chapter 12) ;
 - How to determine who remains in the program if a family breaks up (Chapter 3);
 - Informal review procedures for applicants (Chapter 16);
 - Informal hearing procedures for participants (Chapter 16);
 - The process for establishing and revising voucher payment standards (Chapter 16);
 - The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
 - Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
 - Policies concerning payment by a family to the YHA of amounts the family owes the YHA (Chapter 16);
 - Interim redeterminations of family income and composition (Chapter 11);

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- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
 - Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
 - Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
 - YHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

New Approach to Policy Development

HUD has developed an approach to monitoring and policy development that requires YHA to establish policies for those purposes.

A primary focus of HUD's Rental Integrity Monitoring (RIM) program was consistency – consistency in how YHA conducts their business and in how HUD monitors YHA's activities. HUD expects that all staff will be consistent in the procedures they follow and the calculations they make and that their actions will be consistent with the YHA's Administrative Plan.

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

HUD expects YHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the YHA has adopted. The YHA's Administrative Plan is the foundation of those policies and procedures. HUD's new directions require, more than ever, that YHA makes policy choices to provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides YHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If YHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but YHA carefully thinks through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

The Plan is organized to provide information to users in particular areas of operation.

1-III.D. UPDATING AND REVISING THE PLAN

The YHA will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD during the Annual Plan process. This is primarily achieved during the submission of the Annual Plan of which the Administrative Plan is an attachment.

YHA Policy

The YHA will review and may update the Plan at least once a year, and more often if needed, to reflect changes in regulations, YHA operations, or when needed to ensure staff consistency in operation.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring YHA to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the YHA's housing choice voucher (HCV) operations.

This chapter describes HUD regulations and YHA's policies related to these topics in three parts:

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

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher 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 III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the YHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD and DOJ's Notice of Guidance, published January 22, 2007 in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require YHA to treat all applicants and participants 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, ancestry, age, familial status, handicap and disability. The YHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973

- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

YHA Policy

No additional state or local nondiscrimination laws or ordinances apply above the federal directives, except as noted.

Impediments to Fair Housing/Affirmatively Furthering Fair Housing (Final Rule July 16, 2015)

It is the policy of YHA to comply fully with all Federal, State, and local nondiscrimination laws; the Americans with Disabilities Act; and the U.S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the grounds of race, color, sex, sexual orientation, religion, national origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under YHA housing programs.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as YHA policies, can prohibit discrimination against additional classes of people. Washington State provides these protected classes: race, color, religion, sex, familial status, ancestry, disability, or national origin.

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

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

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

To further its commitment to full compliance with applicable Civil Rights laws, the Housing Department will provide Federal/State/local information to voucher holders regarding unlawful discrimination and any recourse available to them if they believe they are victims of discrimination.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25 and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the Housing Department's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the Housing Department offices in such a manner as to be easily readable from a wheelchair.

The Housing Department offices are accessible to persons with disabilities.

Copies of the federal Fair Housing Act may be obtained by contacting the Housing Department at (501) 624-4404 or (501) 624-4405.

The Housing Department will promptly investigate all complaints of housing discrimination. A resident may report housing discrimination by contacting the Housing Department supervisor, program administrator or by contacting the Housing Department at:

Yakima Housing Authority

Residents may also file complaints of housing discrimination with the Washington Fair Housing Commission.

Upon request, any resident who wishes to file a complaint of housing discrimination with HUD may obtain a copy of a housing discrimination complaint form from this office.

YHA Policy

The YHA does not identify any additional protected classes.

The YHA will not use any of the protected class factors, unless provided under the regulations or laws, to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher 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 participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families and Owners

The YHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the YHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, ancestry, age, familial status, handicap or disability in connection with the contract.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the YHA or an owner, the family should advise the YHA. HUD requires the YHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the YHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Upon receipt of a housing discrimination complaint, the YHA is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted

Keep records of all complaints, investigations, notices, and corrective actions
[Notice PIH 2014-20]

YHA Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the YHA either orally or in writing.

The YHA will attempt to remedy discrimination complaints made against the YHA.

The YHA 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).

The YHA will attempt to remedy discrimination complaints made against the YHA and will conduct a review into all allegations of discrimination.

Within 10 business days following the conclusion of the YHA's review, the YHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The YHA will keep a record of all complaints, reviews, notices, and corrective actions. (See Chapter 16.)

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.

The YHA must ensure that persons with disabilities have full access to the YHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.

YHA Policy

The YHA will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the YHA, by including the following language:

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

A specific name and phone number of designated staff will be provided to process requests for accommodation.

The YHA will display posters and other housing information and signage in locations throughout the YHA's office in such a manner as to be easily readable from a wheelchair

SELF-EVALUATIONS/NEEDS ASSESSMENTS/TRANSITION PLAN (PIH 2010-26)

Section 504 of the Rehabilitation Act of 1973 (Section 504); Title II of the Americans with Disabilities Act of 1990 (ADA):

Initially, with the issuance of the Section 504 implementing regulations at 24 CFR Part 8 on June 2, 1988, YHA was required to conduct needs assessments and develop transition plans to address the identified needs of residents and applicants with disabilities. The transition plan and the needs assessment are required to be available for public review pursuant to 24 CFR § 8.25(c).

Likewise, YHA was required to conduct a self-evaluation their current policies and practices to determine whether, in whole or in part, they do not or may not meet the requirements of Section 504. YHA must then modify any policies and practices that do not meet the requirements and take appropriate corrective steps to remedy the discrimination revealed by the self-evaluation. See 24 CFR § 8.51.

HUD's Office of Fair Housing and Equal Opportunity (FHEO) will continue, as a matter of routine, to request copies of any self-evaluations, needs assessments or transition plans in every compliance review and complaint investigation conducted of a HUD recipient. These documents may also be reviewed by other HUD offices in conjunction with funding applications and in addressing non-compliance issues that may arise. In addition, effective January 26, 1992, Title II of the ADA required PHAs to conduct a self-evaluation of their current services, policies and practices. See 28 CFR §§ 35.105 and 35.150 (d).

PHA-Plan regulations pursuant to the U.S. Housing Act of 1937 at 24 CFR § 903.7(a)(1)(ii) require the submission of a statement addressing the housing needs of low-income and very low-income families, including such families with disabilities, who reside in the jurisdiction served by the YHA and families who are on the public housing and housing choice voucher program waiting list.

Additionally, to ensure continued compliance with Section 504 and Title II of the ADA, YHA is encouraged to conduct needs assessments and self-evaluations, at least yearly, working with persons/residents with disabilities and local advocacy groups for persons with disabilities. (see 24 CFR §§ 8.25(c) and 8.51 for additional information). Transition plans should be updated as a result of such needs assessments and self-evaluations. The transition plan must be made available for public review.

YHA Policy

YHA will develop and maintain a transitional plan to remain in compliance with the Fair Housing Requirements. YHA shall update the plan at least every five years as required and made available for public review.

THE FAIR HOUSING ACT/24 CFR PART 100

Illegal Inquiries (24 CFR § 100.202) – The Fair Housing Act makes it unlawful for a housing provider to:

- Ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability, or

- Ask about the nature or severity of a disability of such persons.

YHA may make the following inquiries, provided these inquiries are made of all applicants, regardless of whether the applicant appears to have a disability or says he or she has a disability;

- An inquiry into an applicant's ability to meet the requirements of tenancy;
- An inquiry to determine if an applicant is involved in current, illegal use of drugs;
- An inquiry to determine if an applicant qualifies for a dwelling legally available only to persons with a disability or to persons with a particular type of disability. YHA may inquire whether an applicant has a disability for determining if that person is eligible to live in mixed population (elderly/disabled) housing or housing designated for persons with disabilities;
- An inquiry to determine if an applicant qualifies for housing that is legally available on a priority basis to persons with disabilities or to persons with a particular disability. This means YHA may ask applicants if they need units with accessible features, including units designed to be accessible for persons with hearing and/or visual impairments, or if they qualify for a housing choice voucher designated for persons with disabilities only.

Verification of eligibility for YHA programs and benefits for persons with disabilities:

YHA is required to verify that an applicant qualifies as a person with a disability before permitting them to move to housing designated for persons with disabilities, or granting the \$400 rent calculation deduction, disability expense allowance, or deduction for unreimbursed medical expenses. Applicants and residents cannot be compelled to reveal that they have a disability; however, if they do not, they may not receive any of the benefits that such status confers. YHA's policy is to ask all applicants whether they wish to claim disability status or need any special unit features or methods of communication for persons with disabilities.

YHA will explain the consequences of the disclosure of one's disability as having possible benefits in rent calculation or an accessible unit, and required verification of disability prior to receipt of the particular benefit at issue.

Verification of disability and need for requested reasonable accommodation(s):

To verify that an applicant is a person with a disability, YHA staff can first check to see whether the applicant is under age 62 and receives either Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) income. Receipt of such disability income is sufficient verification that an individual qualifies as a person with a disability. However, individuals with disabilities who do not receive SSI or SSDI may still qualify as a person with a disability under the statutory definitions of disability. In these cases, the individual with a disability may need to provide supporting documentation. If a person requests a reasonable accommodation, then the YHA may need to verify that the person is a qualified individual with a disability and whether a requested accommodation is necessary to provide the individual with an equal opportunity to use or enjoy a dwelling unit, including the public and common areas. In doing so, YHA should only ask for information that is actually necessary to verify that the person has a disability and that there is a reasonable nexus between the individual's disability and the requested accommodation(s).

YHA is not permitted to inquire about the nature or severity of the person's disability. Further, YHA staff may never inquire about an individual's specific diagnosis or details of treatment. If YHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment and/or information regarding the nature or severity of the person's disability, the YHA should immediately dispose of this confidential information; this information should never be maintained in the individual's file. Under no circumstances should YHA request an applicant's or resident's medical records, nor should YHA require that applicants or residents submit to physical examinations or medical tests such as TB testing, or AIDS testing as a condition of occupancy.

Note: It is a violation of Section 504 and the Fair Housing Act for a PHA to inquire whether an applicant or tenant is capable of "living independently." Courts have consistently held that this is not a legitimate inquiry to make of applicants or residents in HUD-assisted housing and PHAs should ensure that their screening materials do not include questions related to such an inquiry.

Reasonable Modification to Existing Premises (24 CFR § 100.203) – Applies to private owners participating in housing choice voucher programs or other tenant-based programs, as well as to PHA owners of existing public housing units.

Under the Fair Housing Act, it is unlawful for an owner to refuse to permit a person with a disability, at their own expense, to make reasonable modifications of existing premises occupied or about to be occupied by a person with a disability if such modification may be necessary to afford the person with a disability full enjoyment of the premises. Under certain circumstances the owner may require the tenant to pay into an escrow account funds necessary to restore the interior of the unit to its original condition if the modification would interfere with the owner or next resident's full enjoyment of the premises (see regulation for further requirements and guidance.) An owner may require that a resident restore modifications to the interior of the unit.

Reasonable Accommodation (24 CFR § 100.204) - Applies to private owners participating in Housing Choice Voucher programs, PHAs and all housing providers that are recipients of Federal financial assistance. PHAs are also covered under Section 504. The Fair Housing Act makes it unlawful for any person to refuse to make reasonable accommodations in rules, policies,

practices or services when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling unit, including public and common use areas (see regulation for further requirements and guidance).

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION AND PROGRAM SPECIFICS

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

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the YHA, 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.

Reasonable Accommodations [see 24 CFR §§ 8.20, 8.21, 8.24 and 8.33].

YHA and other recipients of Federal financial assistance are required to make reasonable adjustments to their rules, policies, practices and procedures in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy the housing unit, the common areas of a dwelling or participate in or access programs and activities conducted or sponsored by the YHA and/or recipient. When a family member requires a policy modification to accommodate a disability, YHA must make the policy modification unless doing so would result in a fundamental alteration in the nature of its program or an undue hardship on the YHA's programs. Factors to be considered include:

- The overall size of YHA's program with respect to the number of employees, number and type of facilities and size of budget;
- The type of YHA's operation, including the composition and structure of the YHA's workforce and;
- The nature and cost of the accommodation needed.

YHA is not required to accommodate an individual with a disability by modifying a rule or policy that is required by statute. Such a change would be a fundamental alteration of a program.

As with other requested reasonable accommodations, YHA and other recipients are not required to provide requested structural modifications if doing so would result in a fundamental alteration in the nature of the program or an undue financial and administrative burden. However, the YHA or other recipient is required to provide any other reasonable accommodation up to the point that would not result in an undue financial or administrative burden on the particular recipient and/or constitute a fundamental alteration of the program.

YHA Specific Requirements for the Housing Choice Voucher Program (see 24 CFR § 8.28). Notice PIH 2005-05 and subsequent reinstatements by Notice PIH 2006-21 and PIH Letter L-2007-1: New Freedom Initiative, Executive Order 13217: “Community-Based Alternatives for Individuals with Disabilities,” and the Housing Choice Voucher Program.]

In carrying out the requirements of 24 CFR § 8.28, the YHA administering a Housing Choice Voucher Program shall:

In providing notice of the availability and nature of housing assistance for low-income families under program requirements, adopt a suitable means to ensure that the notice reaches eligible individuals with disabilities and that they can have an equal opportunity to participate in the application process for the Housing Choice Voucher Program;

- In its activities to encourage participation by owners, include encouragement of participation by owners having accessible units;
- When issuing a Housing Choice Voucher to a family which includes an individual with disabilities, include a current listing of available accessible units known to the YHA and, if necessary, otherwise assist the family in locating an available accessible dwelling unit;
- Take into account the special problems of locating an accessible unit when considering requests by eligible individuals with disabilities for extensions of Housing Choice Vouchers; and
- In order to ensure that participating owners do not discriminate in the recipient’s federally assisted program, the YHA shall enter into a HUD-approved contract with participating owners, which contract shall include necessary assurances of non-discrimination.
- If necessary as a reasonable accommodation for a person with disabilities, approve a family request for an exception payment standard under Sec. 982.505(d) for a regular tenancy under the Section 8 voucher program so that the program is readily accessible to and usable by persons with disabilities.

Other Specifics to the Housing Choice Voucher Program

YHA may give preference in admission to applicants with disabilities based on local needs and priorities. However, the YHA may not give a preference for admission of persons with a specific disability. See 24 CFR § 982.207(b)(3).

A person with disabilities may choose a suitable unit from among units available for rent in the local rental market.

YHA has the discretion to approve exception payments standards up to 120 percent of the Fair Market Rent when requested as a reasonable accommodation. See 24 CFR § 982.505(d). The HUD field office may approve an exception payment standard amount within the upper range

(between 120-130% of the Fair Market Rent) if required as a reasonable accommodation for a family that includes a person with disabilities. Any exceptions to the payment standards would be granted as a reasonable accommodation after the family with a person with disabilities locates a unit if needed as a reasonable accommodation. See 24 CFR § 982.503(c)(2)(ii) and 24 CFR § 8.28(a)(5). Requests for exception rents above 120% that are needed as a reasonable accommodation for a person with a disability to allow the person to rent an appropriate unit must be submitted to HUD headquarters for regulatory waiver and approval.

YHA may approve the leasing of a unit from a relative to provide reasonable accommodation for persons with disabilities. See 24 CFR § 982.306(d) also see <http://www.hud.gov/offices/pih/publications/notices/09/pih2009-22.pdf> for additional on live-in aides.

Owners of private rental units leased with voucher assistance must make reasonable accommodations in rules, policies, practices or services if necessary for a person with disabilities to use the housing and must allow the person with a disability to make reasonable modifications in accordance with 24 CFR § 100.203. See also 24 CFR § 100.204 (a).

SECTION 8/HOMEOWNERSHIP OPTION- 24 CFR § 982.625 – THRU § 982.643

If YHA is administering the HCV Homeownership Program, the additional Fair Housing provisions will be applicable:

- A disabled family meets the first-time homeowner requirement even if the family owned a home within the last three years if use of the homeownership option is needed as a reasonable accommodation so that the housing choice voucher program is readily accessible to and usable by the family member with a disability. See 24 CFR § 982.627 (b)(3)
- YHA must count welfare assistance for a disabled family in determining whether the family meets the minimum annual income used to determine if a family member qualifies for commencement of home ownership assistance. See 24 CFR § 982.627(c)(2)(i).
- The full-time employment eligibility requirement does not apply to a family with a disability. See 24 CFR § 982.627(d)(3).
- The limit on the length of time a family may receive homeownership assistance does not apply to families with disabilities. See 24 CFR § 982.634(c).
- Covered homeownership expenses may include principal and interest on mortgage debt incurred by the family to finance the cost of making the home accessible for a family member with a disability if the PHA determines the allowance of such costs is needed as a reasonable accommodation. See 24 CFR § 982.635(c)(vii).

PROJECT-BASED VOUCHER PROGRAM

If YHA is administering the Project-based Voucher Program, the additional Fair Housing provisions will be applicable:

- YHA, at their discretion, may choose to use up to 20 percent of their tenant-based assistance for project-based subsidies to encourage the development of projects for persons with disabilities.
- Under the new law governing project-based assistance, only 25 percent of the units in a project may be subsidized. However, the law allows an exception for units for families with disabilities, elderly families and for families who receive supportive services.
- 24 CFR § 983.251(d) states that YHA may give preference to disabled families who need services offered at a particular project in accordance with certain limits. Limits include: families with disabilities that significantly interfere with the ability to obtain and maintain themselves in housing; families who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and for families whom such services cannot be provided in a non-segregated setting. Disabled persons cannot be required to accept the particular services offered in a project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

Non-housing Facilities (see 24 CFR § 8.21).

Newly constructed non-housing facilities shall be designed to be readily accessible to and usable by people with disabilities. Alterations to existing facilities shall be made accessible to the maximum extent feasible – defined as not imposing an undue financial and administrative burden on the operations of the recipient’s program or activity. For existing non-housing facilities, CHAs shall operate each program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. There are a number of methods included in the regulation at 24 CFR § 8.21(c)(2) which may be used to accomplish accessibility in existing non-housing programs and activities.

Departures from UFAS are permitted as outlined in Section I. B, item 5 of PIH 2010-26.

Common Areas

Section 504 and Title II of the ADA require that YHA operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. *See* 24 CFR § 8.24(a) and 28 CFR § 35.150 (a).

Therefore, the YHA must ensure that its common areas and public spaces serving its designated accessible units, including, but not limited to, community buildings, management offices, meeting rooms, corridors, hallways, elevators, entrances, parking, public transportation stops, social service offices, mail delivery, laundry rooms/facilities, trash disposal, playgrounds, child care centers, training centers and recreational centers, are accessible to individuals with disabilities. In the alternative, the YHA may offer the program, service or activity, currently located in an inaccessible location, in an equivalent, alternate accessible location.

Specifically, YHA may comply with the requirements of 24 CFR § 8.24 through such means as reassignment of services to accessible buildings, assignment of aides to beneficiaries, provision of housing or related services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities. In choosing among available methods, the PHA shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate. *See* 24 CFR § 8.24 (b).

FAIR HOUSING PROVISIONS AS RELATES TO ADMISSION/OCCUPANCY

Application Process

YHA must ensure that all employees who are involved in the application process understand how to conduct tenant selection and screening without discriminating on the basis of any protected class, in particular applicants with disabilities. All application offices must be accessible. The YHA must provide accessible materials for persons with sight and hearing impairments and otherwise provide effective communication, upon request. *See* 24 CFR § 8.6 and § 8.54(c). YHA must make special arrangements to take the application of persons who are unable to come to the PHA's offices because of a disability. At the initial point of contact with each applicant, the YHA must inform all applicants of alternative forms of communication. *See* 24 CFR § 8.6.

Effective Communication/Provision of Auxiliary Aids & Services:

The YHA shall provide appropriate auxiliary aids and services, where necessary, to afford an individual with disabilities an equal opportunity to participate in the YHA's programs, services and activities. In determining what auxiliary aids are appropriate, the YHA shall give primary consideration to the request(s) of the individual with disabilities unless doing so would result in a fundamental alteration of the YHA's programs or in undue financial and administrative burden. If an action would result in such an alteration or burdens, the YHA shall take any other action up to the point that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits and services of the PHA's program or activity.

The YHA is not required to provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature. *See* 24 CFR § 8.6, 28 CFR §§ 35.160 and 35.161.

When the YHA has initial contact with the applicant, resident, or member of the public, the YHA staff should ask whether the applicant, resident, or member of the public requires an alternate

form of communication. Examples of alternative forms of communication might include, but are not limited to: the provision of a qualified sign language interpreter; having written materials explained orally by staff either in person or by telephone; provision of written materials in large/bold font; information on audiocassette; permitting applicants to file applications by mail; and permitting alternative sites for the receipt of applications.

In addition, the YHA may never require the applicant to provide, or pay for, his/her own sign language interpreter. Rather, it is always the YHA's responsibility to provide, upon request, a qualified sign language interpreter. However, the YHA's responsibility to provide a qualified sign language interpreter does not preclude an individual's right to have a friend, relative or advocate accompany him/her for purposes of conducting business with the YHA.

Live-in-Aides

In some cases, individuals with disabilities, near elderly, and elderly may require a live-in-aide. YHA should consider a person a live-in-aide if the person: (1) is determined to be essential to the care and wellbeing of a family member with a disability; (2) is not obligated to support the family member; and (3) would not be living in the unit except to provide the supportive services. A live-in-aide should not be required to share a bedroom with another member of the household. *See* 24 CFR §§ 966.4(d)(3) and 982.316, 982.402(b).

Verification

The YHA may verify a person's disability only to the extent necessary to ensure that applicants are qualified for the housing for which they are applying; that applicants are qualified for deductions used in determining adjusted income; that applicants are entitled to any preference they may claim; and that applicants who have requested a reasonable accommodation have a need for the requested accommodation. YHA may not require applicants to provide access to confidential medical records in order to verify a disability nor may YHA require specific details as to the disability. YHA may require documentation of the manifestation of the disability that causes a need for a specific reasonable accommodation or accessible unit. YHA may not seek the individual's specific diagnosis, nor may the YHA seek information regarding the nature, severity or effects of the individual's disability.

YHA should also conduct outreach activities for income-eligible persons with disabilities. The outreach activities may include, but are not limited to publicity/advertising in local print media, contacts with advocacy groups representing persons with disabilities and other entities that come into contact with persons with disabilities such as social service agencies, medical providers, etc.

Screening/Reasonable Accommodations

Many applicants with disabilities will pass screening, will not need a reasonable accommodation, will not need special accessibility features, and will be admitted in exactly the same manner as applicants without disabilities. Applicants who fail screening will receive a rejection letter. This letter must provide all applicants with information concerning the YHA's informal review process and their right to request a hearing. The letter must also state that applicants with disabilities have the right to request reasonable accommodations to participate in the informal

hearing process. The YHA is obligated to provide such reasonable accommodation unless doing so would result in a fundamental alteration in the nature of the PHA's program.

If requested by the applicant, YHA must consider verifiable mitigating circumstances that explain and/or overcome any prior misconduct related to a previous tenancy. If a reasonable accommodation would allow an applicant with a disability to meet the eligibility requirements for housing, a housing provider must provide the requested accommodation.

A reasonable accommodation allows the applicant with a disability to meet essential requirements of tenancy; it does not require the YHA to reduce or waive essential eligibility or residency requirements. Examples of reasonable accommodations include, but are not limited to: physical alteration of units; making services and programs currently located in an inaccessible location in an alternate, accessible location; and revising the YHA's policies and procedures. The YHA should focus on finding a reasonable accommodation that will permit the applicant with a disability to comply with the essential obligations of tenancy. YHA is not required to excuse the applicant from meeting those requirements. YHA will provide all applicants with information regarding the YHA's Reasonable Accommodation Policy and Procedures at the time they apply for admission and at every annual re-certification. YHA must have a reasonable accommodation policy which is now contained in the Administrative Plan. The YHA's responsibility to provide reasonable accommodations for applicants and residents is present at all times, including during lease enforcement.

Service Animals are Not Pets

Regular YHA pet policies do not apply to animals that are used to assist persons with disabilities and are necessary as a reasonable accommodation. [An "assistance animal" is an animal that is needed as a reasonable accommodation for persons with disabilities. An assistance animal is not considered a "pet" and thus, is not subject to the PHA's pet policy. Assistance animals are animals that work, provide assistance, perform tasks for the benefit of a person with a disability or provide emotional support that alleviates one or more identified symptoms or effects of a person's disability.]

YHA or Owner 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 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 a disability.

Assistance animals are exempt from YHA's and the landlords "pet" restrictions or policy requiring pet deposits or monthly pet fees. However, all reasonable lease provisions relating to health and safety apply to assistance/service animals such as maintaining the premises in a clean and sanitary condition and ensuring that neighbors enjoy their premises in a safe and peaceful manner.

Types of Reasonable Accommodations

When needed, the YHA will modify normal procedures to accommodate the needs of a person

with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail.
- Conducting home visits.
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the YHA range) if the YHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.
- May approve the leasing of a unit from a relative to provide reasonable accommodation for persons with disabilities. This provision does not apply to shared housing. *See* 24 CFR §§ 982.306(d), 982.615 (b)(3).
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit.
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with YHA staff.
- Displaying posters and other housing information in locations throughout the YHA's office in such a manner as to be easily readable from a wheelchair.
- May approve a utility allowance that is higher than the applicable amount on the utility allowance scheduled. YHA will consider requests to approve a utility allowances because of additional equipment that uses an allowable consumption verified by engineering studies and will allow up to twenty-percent (20%) over the published and approved utility allowance.
- Exception rents for determining rent reasonableness.
- Assisted Living Units in the Housing Choice Voucher (HCV) Program- PIH 2012-40.

2-II.C. REQUEST FOR AN ACCOMMODATION

The YHA is dedicated to providing housing benefits through the public housing program and, in doing so, it prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, sexual orientation and **disability**, consistent with the United States Fair Housing Act, 42 U.S.C. sections 3601-3619 and Section 504 of the Rehabilitation Act of 1973, as amended.

The YHA recognizes the following terms and definitions:

1. The YHA considers a person with a **“disability”** to include: (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

2. 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, epilepsy, Human Immunodeficiency Virus infection, cancer, heart disease, diabetes, mental retardation, emotional illness (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.
3. The term “**substantially limits**” suggests that the limitation is “significant” or “to a large degree.”
4. The term “**major life activity**” means those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self, learning, and speaking. This list of major life activities is not exhaustive.
5. The term “**reasonable accommodation**” is a change, exception, or adjustment to a rule, 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.

The YHA is committed to making reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities with an equal opportunity to use and enjoy a dwelling. The YHA will consider that a person is requesting a reasonable accommodation when that person makes it clear that he/she is requesting an exception, change, or adjustment to a rule, policy, or practice, or service because of a disability, regardless of whether the request is made verbally or in writing. Upon receipt of a request for a reasonable accommodation, the YHA will engage the person in dialogue to discuss what type of accommodation he/she is requesting and, if the need for the accommodation is not readily apparent or not known to the YHA, the requester will be asked to explain the relationship between the requested accommodation and his/her disability.

In order to show that a requested reasonable accommodation may be necessary, there must be an identifiable relationship or nexus between the requested accommodation and the individual’s disability. The YHA is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability.

If a requester’s disability is known or otherwise obvious and if the need for the requested accommodation is readily apparent or known, then the YHA will NOT seek any additional information about the requester’s disability or the disability-related need for the accommodation.

If the requester’s disability is known or readily apparent to the YHA, but the need for the requested accommodation is NOT readily apparent or known, the YHA will only request information that is necessary to evaluate the disability-related need for the information.

The YHA does not ordinarily inquire into the nature and severity of an individual’s disability; however, in response to a request for a reasonable accommodation the YHA may request reliable

disability-related information that (1) is necessary to verify that the requester meets the Act's definition of disability (i.e., has a physical or mental impairment that substantially limits one or more major life activity), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation.

In many circumstances the requester may be able to verify the disability with information (e.g., proof that an individual under the age of 65 years of age receives either Supplemental Security Income or Social Security Disability Insurance benefits or a credible statement by the individual).

In addition, 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 requester's disability, may also be asked to provide verification of a disability.

The YHA will maintain such information confidential and it will not be shared with anyone unless the person needs the information to make or assess the decision to grant or deny a request for the accommodation, the continuation of an accommodation or unless disclosure is otherwise required by law.

Application, Screening, and Leasing Process

All prospective applicants for housing benefits are provided an opportunity to inform the YHA of their need for a reasonable accommodation at the preliminary application.

If an applicant who is an individual with a disability requires assistance in completing his/her preliminary application, he or she will receive assistance from a YHA staff.

The need for a reasonable accommodation is documented in the preliminary application.

Applicants selected from the YHA wait list are required to participate in a formal screening session. During this process, applicants are provided an opportunity to inform the YHA of a need for a reasonable accommodation. This is documented on the YHA Formal Application.

Applicants are asked to specify what types of accommodations are needed. The YHA reserves the right to ask the applicant to verify their disability and the need for the requested accommodation.

If during the screening process, an applicant, as a result of his or her disability, is unable to provide requested information by any deadline given, or where the applicant provides information which is incomplete because of his or her disability, YHA will offer the applicant assistance by offering to contact a verifier (i.e., physician, caseworker, attorney, etc). If YHA is still unable to verify the need for a reasonable accommodation or is unable to obtain the necessary information, the applicant will be provided an opportunity to submit a request for reasonable accommodation on his/her behalf, and identify and document the difficulties he/she has experienced in obtaining the requested documentation. All actions performed by YHA to

assist the applicant to obtain the necessary information will be properly documented and retained in the screening file (as applicable). If the information from the applicant and the documentation provided and/or any other relevant circumstances that are documented are acceptable, YHA will proceed with the screening process.

Currently Assisted Families

A current resident may make a request for a reasonable accommodation at any time during their residency. It is preferred that all requests be made in writing; however, in cases when residents are unable to submit a written request, YHA will offer appropriate assistance with documenting the request. After the initial request, YHA will conduct an interview with the resident to gather necessary facts related to the resident's request for reasonable accommodations. The resident must provide the YHA with enough information in order to properly review the request for a decision and verify the need for a reasonable accommodation. As mentioned above, the YHA may need to request additional information from a professional and/or physician, etc.

Once a request for a reasonable accommodation is verified then YHA will then analyze the request to determine whether the request can be granted or whether it will be denied. Provided the verification demonstrates a disability-related need for the requested accommodation the YHA will grant the request, unless the request is unreasonable, i.e., if the request would impose an undue financial and administrative burden on the YHA or it would fundamentally alter the nature of the YHA's operations. In cases where the request is denied because it is unreasonable YHA will engage the requester in an interactive process in which YHA and the requester discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations.

Once a requester's request for a reasonable accommodation has been verified and approved, the YHA will make every effort to meet the request for accommodation for the family. If the request for reasonable accommodation cannot be achieved within the existing unit and a transfer to another unit within the YHA jurisdiction is necessary, the requester will be provided a "Transfer Request Form" to complete and the requester will be placed on the transfer waiting list. The YHA will process this request for reasonable accommodation through the approved transfer process contained within the YHA's Administrative Plan Chapter 10.

Examples of reasonable accommodations may include, but not be limited to, the following:

- The use of telephone applications or home visit applications
- Coordinating with a reader to be available to assist a vision-impaired applicant or resident
- Coordinating with a sign language interpreter available to a hearing-impaired applicant or resident

- Coordinating with an outside agency to assist an applicant or resident with a disability/handicap
- Requests for an extra bedroom
- Installing flashing light smoke detectors in an apartment for a household with a hearing-impaired member
- Installing a flashing light doorbell in an apartment for a household with a hearing-impaired member
- Installing raised numbers on the mailbox and in the elevator for a vision-impaired resident
- Providing a designated handicapped parking space near a mobility-impaired resident's unit although YHA's parking "first come, first served"
- Mailing or delivering a lease to a disabled resident

Permitting a third party representative to assist a disabled resident YHA conferences or meetings

YHA Policy

The YHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the YHA 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. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability that is used for waiting list preferences and income allowances.

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

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

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the YHA, the YHA must verify that the person meets the definition of a

person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the YHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability, subject to State Statutes. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The YHA must request only information that is necessary to evaluate the disability-related need for the accommodation. **The YHA shall not inquire about the nature or extent of any disability.**
- Medical records on the individual will not be retained in the participant's file, but returned to the individual or destroyed.
- In the event that the YHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the YHA will dispose of it. In place of the information, the YHA 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 [Notice PIH 2010-26]

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the YHA, or fundamentally alter the nature of the YHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the YHA at the time of the request, the benefits that the accommodation would provide to the family, and the

availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

YHA Policy

After a request for an accommodation is presented, the YHA will respond, in writing, within 30 business days.

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

If the YHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the YHA will notify the family, in writing, of its determination within 15 business days from the date of the most recent discussion or communication with the family.

2-ILF. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

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

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

YHA Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available. YHA will use the statewide 711.

To meet the needs of persons with vision impairments, 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

The YHA must comply with the regulations pertaining to physical accessibility, including the following:

- PIH 2002-01 (HA), Accessibility Notice;
- Section 504 of the Rehabilitation Act of 1973;
- The Americans with Disabilities Act of 1990;
- The Architectural Barriers Act of 1968;
- The Fair Housing Act of 1988;
- PIH 2011-31 (HA) Fair Housing Requirements and subsequent notices.
- PIH 2010-26 (HA) Accessibility Notice and subsequent notices.

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

- This Plan describes the key policies that govern the YHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 (HA) Accessibility Notice summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The YHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of YHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the YHA will include a current list of available accessible units known to the YHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A YHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

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

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

When reviewing reasonable accommodation requests, the HA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the YHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the YHA must make the accommodation.

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published January 22, 2007 in the *Federal Register*.

The YHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the YHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the YHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the YHA.

2-III.B. ORAL INTERPRETATION

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

YHA Policy

The YHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, the YHA will hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, the YHA will encourage the use of qualified community volunteers.

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

2-III.C. WRITTEN TRANSLATION

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

YHA Policy

In order to comply with written-translation obligations, the YHA will take the following steps:

The YHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered in the YHA’s jurisdiction. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the YHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These “safe harbor” provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP persons through competent oral interpreters where oral language services are needed and reasonable.

YHA will use the written documents supplied by HUD, whenever possible. All documents will be clearly marked “ For Informational Purposes Only”. All documents that will be executed for the files and program requirements will be in English.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the YHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the YHA determines that it is not necessary to develop a written implementation plan or Language Access Plan (LAP), the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the YHA's Housing Choice Voucher program and services.

YHA Policy

If it is determined the YHA serves very few LEP persons, and the YHA has very limited resources, the YHA has not developed a written LAP, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. If YHA determines that it serves or is under-serving LEP persons because of language barriers and YHA has the available resources, then YHA will develop a LAP. YHA will use entities having significant contact with LEP persons, such as DSS, schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants. These entities will be contacted for input into the process.

If the YHA determines it is appropriate to develop a written LAP, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LAP.

PART IV: A SUPPLEMENTAL INFORMATION TO APPLICATION FOR ASSISTANCE REGARDING IDENTIFICATION OF FAMILY MEMBER, FRIEND OR OTHER PERSON OR ORGANIZATION SUPPORTIVE OF A TENANT FOR OCCUPANCY IN HUD ASSISTED HOUSING

2-IV.A. OVERVIEW (PIH 2012-22)

Section 644 of the Housing and Community Development Act of 1992 (42 U.S.C. 13604) imposed on HUD the obligation to require housing providers participating in federally assisted housing programs to give any individual or family applying for occupancy the option to provide additional contact information as part of their application. The contact information included in the application for occupancy is the name, address, telephone number, and other relevant information of a family member, friend, or person associated with a social, health, advocacy, or similar organization. The YHA may not require the applicant to provide such information.

The objective of providing such information, if the applicant becomes a tenant, is to facilitate contact by the housing provider with the person or organization identified to assist in providing any delivery of services or special care to the tenant and to assist with resolving any tenancy issues arising during their tenancy. This supplemental application information is to be maintained by the YHA as confidential information.

2-IV. B IMPLEMENTATION REQUIREMENTS

- A. The YHA must implement the requirements of Section 644 and begin using form HUD-92006, Supplement to Application for Federally Assisted Housing.
- B. The YHA must notify applicants at the time of application of their right to include as part of their application the name, address, telephone number and other relevant information of a family member, friend, or social, health, advocacy or other organization. This individual or organization may be contacted by the YHA to help in resolving issues that may arise during the applicant's tenancy or to assist in providing special care or services the applicant may require as a tenant.
- C. Form HUD-92006, Supplement to Application for Federally Assisted Housing.
 1. Form HUD-92006 must be included as an attachment YHA's application.
 2. Applicants
 - Applicants must be provided the opportunity to complete the information on form HUD-92006, Supplement to Application for Federally Assisted Housing. The form gives applicants the option to identify an individual or organization that the YHA may contact and the reason(s) the individual or organization may be contacted. The applicants, if they choose to provide the additional contact information, must sign and date the form.
 - YHA **cannot** require any individual or family applying for occupancy to provide the contact information as providing contact information is optional on the part of the individual or family. Those applicants who choose not to provide the contact information should check the box indicating that they "choose not to provide the contact information" and sign and date the form.
 - YHA will provide applicants the opportunity at time of admission to update, remove or change contact information provided at the time of application, particularly if a long period of time has elapsed between the time of application and actual admission to the program.
 - If the applicant chooses to have more than one contact person or organization, the applicant must make clear to the YHA the reason each person or organization may be contacted. The YHA will accommodate the applicant by allowing the applicant to complete a form HUD-92006 for each contact and indicating the reason the YHA may contact the individual or organization. For example, the applicant may choose to have a relative as a contact for emergency

purposes and an advocacy organization for assistance for tenancy purposes.

3. Tenants.

- Although it is not required, YHA will provide tenants who were not provided the opportunity to provide contact information at the time of application and admission, the option to complete form HUD-92006 and provide contact information at the time of their next annual reexamination/recertification.
- YHA **cannot** require tenants who have not provided contact information to provide the contact information at the time of annual recertification as providing this information is optional on the part of the individual or family.
- Tenants may request to update, remove or change the information provided on form HUD-92006 at any time and the YHA must honor this request.
- YHA will tenants who have provided contact information using form HUD-92006, the opportunity to update, remove or change the information at the time of annual recertification to ensure that current information is on file. This includes allowing tenants who originally chose not to provide contact information the opportunity to provide contact information if they request to do so.

2-IV. C. USE OF THE CONTACT INFORMATION

YHA will contact the individual or organization provided only for the use or uses indicated by the applicant or tenant on form HUD-92006. This contact information will assist the YHA in providing the delivery of any services or special care to the tenant and assist in any tenancy issues arising during the term of tenancy of the tenant.

2-IV. D. RETENTION OF CONTACT INFORMATION (FORM HUD 92006)

YHA must retain the form HUD-92006 with the applicant's application.

YHA must retain the information for as long as the tenant is a resident. YHA will follow program retention requirements for retention of tenant files after end of participation in the program or after move-out. YHA is required to retain tenant file information for term of tenancy plus three years.

2-IV. E. CONFIDENTIALITY OF CONTACT INFORMATION

Section 644 requires that YHA keep the contact information confidential. YHA is allowed to

release the information for the stated statutory purpose only which is to assist the YHA in providing services or special care for such tenants, and in resolving issues that may arise during the tenancy of such tenants.

2-IV. A. PRIVACY RIGHTS

Applicants and participants, including all adults 18 years or older in their households, are required to sign the HUD 9886 Authorization for Release of Information/Privacy Act Notice. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

It is the YHA policy that client files as well as participant and owner information are closed to public access to the fullest extent permitted by State law.

The YHA's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

- To release pertinent client information only in accordance with a properly executed release form
- To release information relative to claims not reimbursed and/or outstanding over subsidy amounts where there is no current re-payment agreement.
- To release information by the authorization of the Executive Director and written consent of the affected party or pursuant to a court subpoena.

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential". The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the HCV Program Director.

The YHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location that is only accessible only by authorized staff.

YHA staff will not discuss family information contained in files unless there is a business reason to do so.

**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 the YHA) 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 HCV 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

disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

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

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

Chapter 3

ELIGIBILITY

INTRODUCTION

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

In the case of disputes on eligibility/ineligibility criteria that are pending the outcome of legal proceedings (i.e., currently under appeal in a court of law), the YHA will determine the family to be ineligible at that time. If the legal decision is rendered that the person did meet the eligible factors, the YHA shall restore the application to the original date and time, and reinstate the applicant to any other preference factors that the YHA has adopted. If the legal decision is rendered that the person did not meet the eligibility factors, the YHA shall only provide the applicant with access to the grievance process in accordance with applicable requirements.

To be eligible for the HCV program:

- The applicant family must:
 - Qualify as a family as defined by HUD and the YHA.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for family members as required.
 - Consent to the YHA's collection and use of family information as provided for in YHA-provided consent forms.
 - Not be ineligible due to criminal or other ineligible conduct.
 - Not be ineligible for assistance in accordance with the restrictions on assistance to students enrolled in an institution of higher education status (24 CFR 5.612)*.
 - Meet other YHA or HUD requirements
 - The applicant must not have committed fraud while on any assisted federal program
- The YHA will determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the YHA.
- In order to be eligible for the voucher, prior to the issuance of the voucher, the family must verify that in the case of tenant paid utilities, the family must be capable of having the utilities turned on the name of the head-of-household, spouse, or co-head.

***Restrictions on Assistance to Students Enrolled In Institution of Higher Education**

No assistance shall be provided under Section 8 of the 1937 Act to any individual who:

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965;
- Is under 24 years of age;
- Is not a veteran of the United States military;
- Is unmarried;
- Is not a person with disabilities and was not receiving assistance as of November 30, 2005;
- Does not have a dependent child; and
- Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under Section 8 of the 1937 Act.

Ineligibility/Termination of Users of Medical Marijuana or For Other Use

According to HUD opinion, marijuana is a Federally controlled substance and the YHA must establish standards that "prohibit admission to federally assisted housing for any household with a member who the YHA/owner determines is illegally using a controlled substance" (should be in your Administrative/ACOP plans). While it may be legal in the State, Federal law prevails and YHA does not recognize or allow the use of marijuana at the time of admission, nor anytime for continued occupancy. Applicants will not be allowed the use of marijuana for any reason, and participants will be terminated for use of this and any other controlled substances.

See Exhibit 3-2: Detail on Student Eligibility for further clarification.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and YHA 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, ineligible student and family consent.

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the YHA to deny assistance.

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), 24 CFR 5.504, 24 CFR 5.403, 24 CFR 5.100, FR Notice 2-3-12 and PIH Notice 2014-20]

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

Family

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

The applicant must qualify as a Family. A family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely on the basis that they are not related by blood, marriage or operation of law. For occupancy standards purposes, the applicant may claim a spousal relationship.

A group of persons is defined by YHA as two or more persons who intend to share residency, and whose income and resources are available to meet the family's needs, and will live together in YHA housing.

Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- (2) A group of persons residing together, and such group includes, but is not limited to:
 - (a) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (b) An elderly family;
 - (c) A near-elderly family;
 - (d) A disabled family;
 - (e) A displaced family; and
 - (f) The remaining member of a tenant family.

An expectant mother with no children will qualify for assistance as a *family*.

Gender Identity means the gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity. Perceived gender

identity means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

Disabled family means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

Displaced family means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief.

Elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

Near-elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the persons;
- (2) Is not obligated for the support of the persons; and
- (3) Would not be living in the unit except to provide the necessary supportive services.

Household means the family and a YHA-approved live-in aide. A household may also include additional, other people who, with the YHA's discretionary permission, live in an assisted unit such as foster children and foster adults.

Tenant means an individual or a family renting or occupying an assisted dwelling unit.

YHA Policy

A family also includes two (2) or more persons who intend to share residency whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship for at least one year.

Evidence of a stable family relationship may include any of the following: birth certificates of the children indicating common children, joint tax returns, prior lease (held jointly), joint bank accounts, insurance policies indicating common status.

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived

together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

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

Children temporarily absent from the home due to placement in foster care are considered family members. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the voucher size for other family members.

At the time of admission, children in the process of being adopted are considered family members for the purpose of determining bedroom size, but not considered family members for determining income limit.

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

Family Break-up [24 CFR 982.315]

The YHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the YHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-IX.D of this plan.)

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, then YHA is bound by the court's determination of which family members continue to receive assistance in the program provided that such members otherwise meet all eligibility criteria, and are not otherwise disqualified, to receive assistance at the time said settlement or judicial decree is made or entered. YHA may require a new application to determine eligibility. A settlement or judicial decree determining assistance shall not otherwise bind YHA to offer or continue assistance to a family member who is either ineligible or later becomes ineligible to receive assistance.

YHA Policy

A family break-up means that that a relationship among spouses, partners, or co-heads, as defined herein, is in the process of ending or is irretrievably broken and there has been some action taken consistent with the ending or breaking-up of the relationship, such as a spouse, domestic partner, or co-head moving out or separating for an extended period of time, taking up another residence, and/or legal process being taken to dissolve a relationship. YHA may determine whether a family break-up has occurred or is in the process of occurring based upon the facts and circumstances discovered by or made known to YHA.

When a family break-up occurs, YHA may consider the following factors in making a decision as to which members of an assisted family will continue to receive assistance:

- (1) Whether the assistance should remain with family members remaining in the original assisted unit.

-
- (2) The interest of minor children, including custody arrangements.
 - (3) The interest of ill, elderly, or disabled family members.
 - (4) Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.
 - (5) Whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and whether the abuser is still in the household.
 - (6) Any possible risks to family members as a result of criminal activity.
 - (5) The recommendations of social service professionals.
 - (7) Individuals' and families' own histories of lease compliance, rules compliance, and interactions with YHA staff.
 - (8) Any other information YHA deems relevant to the decision making process for purposes of determining which members of an assisted family will continue to receive assistance.

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

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

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation within 10 working days of the change of family composition, both may be denied placement on the waiting list.

Remaining Member of a Tenant Family [24 CFR 5.403, PIH 2010-50 and updates]

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

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

For deceased single member households or a household where the remaining household member is a live-in aide, YHA is required to discontinue HAP to the owner no later than the first of the following month after the month in which the death occurred. YHA is required to immediately terminate program assistance for deceased single member households which will result in termination of the HAP contract and HAP to the owner in accordance with the aforementioned provisions. The owner is **not** entitled to HAP for any month following the month in which the death occurred. There are no exceptions to this policy.

When the HOH dies and the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy in a subsidized

unit. By definition, the live-in aide would not be living in the subsidized unit except to provide the necessary supportive services on behalf of the elderly or disabled HOH. The YHA may not designate the live-in aide as the new HOH or change the relation code (line item 3h on the form HUD-50058) of the live-in aide to make him or her an eligible household member (eligible for assistance) nor pay HAP on behalf of the live-in aide for any month after the month in which the HOH died.

If the HOH is deceased and the remaining household members are minors, the YHA has an established policy for dealing with situations when the HOH dies during tenancy and the remaining household members are minors. They will use a common practice of PHAs that includes (but is not limited to) allowing a temporary adult guardian to reside in the unit until a court-appointed guardian is established.

In accordance with its screening policies, the YHA may add the new guardian as the new HOH and will work with the local Department of Social Services to ensure that the best interests of the residuals are addressed.

The live-in aide or live-in aide's members can never be considered a residual.

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

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

YHA Policy

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

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

3-I.E. SPOUSE, PARTNER, CO-HEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both. See, HUD-50058 IB, p. 13.

Spouse means the marriage partner of the head of household, that is, a husband, wife, or same-sex spouse. Spouses are legally recognized as married persons under the laws of the jurisdiction where said marriage occurred and may include common law marriage. The term "spouse" does not include domestic partners, boyfriends, girlfriends, significant others, or co-heads of households. A minor who is emancipated under state law may be designated as a spouse.

Domestic partner or **domestic partners** and similar variations means persons who are not spouses and are not regarded as having been married under the laws of any jurisdiction but are regarded as having similar rights and obligations arising under the laws of the jurisdiction in which they reside. Domestic partners are two persons who have a stable, marital-like relationship

where both persons have cohabited for a significant period of time with the knowledge that they are not married. Domestic partners may be recognized as having a civil union, a domestic partnership, and/or a meretricious relationship. The terms “domestic partner” and “domestic partners” do not include spouses, boyfriends, girlfriends, significant others, or co-heads of households. A minor who is emancipated under state law may be designated as a partner.

Co-head means an adult 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 or domestic partner. A family can have only one co-head. A family may designate either one spouse as the single head of household, or two co-heads who are not spouses, but not both. A co-head cannot be a dependent. A minor emancipated under state law may be designated as a co-head.

Other relationships mean those relationships that would not be recognized under the law of the jurisdiction in which the adults reside as a marital relationship or a domestic partnership relationship. This includes “boyfriend/girlfriend” or “significant other” relationships or other forms of friendship or acquaintance, whether platonic or intimate, where the persons would not be considered “spouses” or “partners”. Friends, acquaintances, boyfriends, girlfriends, significant others and the like are guests as defined herein.

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

YHA Policy

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

Domestic partners may be designated as co-heads but not as spouses or the spouse of the head of household.

Persons who have an “other relationship” with a family member, and who have not been designated as a co-head of household, are not family members but rather are guests.

3-I.F. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

YHA Policy

When both parents are assisted under the Section 8 Rental Assistance Programs and both parents are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

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

Children who are not registered in a school program, including preschool, who are subject to a

joint custody agreement but live in the unit at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

For children who are not registered in school, the custodial parent for tax purposes will be considered the custodial parent in determining which family claims the child as a dependent for purposes of household composition, subsidy standards and total tenant payment calculation.

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

3-I.G. FULL-TIME STUDENT [24 CFR 5.603, HVC GB p. 5-29]

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

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

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

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62.

For Admission purposes as defined- *Near elderly* households are families whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 year of age but below the age of 62 living with one or more live-in aide.

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person; two or more individuals above the age of 62 that are residing together, or one or more persons above the age of 62 residing with one or more live-in aides. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

3-I.I. PERSONS WITH DISABILITIES, DISABLED FAMILY, LIVE-IN AIDE [24 CFR 5.403]

Disabled Household

For the purposes of the YHA, the term "disabled household" will mean a household where the head of household, spouse or co-head is a person with a disability

A person with disabilities means a person who (i) has a disability, as defined in 42 U.S.C. 423; (ii) is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that is (A) Is expected to be of long-continued and indefinite duration; (B) Substantially impedes his or her ability to live independently, and (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or (iii) Has a developmental disability as defined in 42 U.S.C. 6001.

A person with disabilities does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. A person with disabilities, for purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence. A person with disabilities also means "individual with handicaps", as defined in 24 CFR 8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities.

Persons with Disabilities

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individuals with a disability are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes and may include ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the YHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

Disabled Family means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the YHA from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

Live-In Aide

See, Section 3-I.M below

3-I.J. GUESTS [24 CFR 5.100]

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

YHA Policy

A guest can remain in the assisted unit no longer than fourteen (14) consecutive days or a total of 30 cumulative calendar days during any 12-month period.

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

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

3.I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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

Foster children and foster adults that are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for the \$480 dependent deduction [24 CFR 5.603 and HUD-50058 IB, p. 13]. Foster children and foster adults that are permitted to occupy the dwelling unit will be used to determine the voucher size for assistance.

YHA Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

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

With the prior written consent of the YHA, a foster child/foster adult may be added to the Section 8 participant family. The factors considered by the YHA in determining whether or not consent is granted may include:

- Whether the addition of a new occupant may require the issuance of a new voucher, and whether such voucher subsidy is available.
- The Section 8 landlord's written approval of the additional persons being added to the lease.

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

YHA Policy

Generally, an individual who is or is expected to be absent from the assisted unit for 3 consecutive months or 90 calendar days in a 12-month period or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 3 consecutive months or 90 calendar days in a 12-month period is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

YHA Policy

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

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

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

YHA Policy

In instances in which the children have been removed from the home by a social service agency, the agency will be contacted to determine the approximate length of time the children are expected to be away from the home.

If a child has been placed in foster care, the YHA 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.

If the agency indicates that the children are expected to return to the home at some point, the children will remain a part of the family composition and will be counted toward the family's subsidy standard, but will not be counted as dependents until they return to the home.

If the children are not ever expected to be returned to the home, the children will be removed from the family composition and the family's subsidy standard will be reduced accordingly at the next annual review.

If the agency indicates that it is unknown whether the children will be returned to the home, the children will remain a part of the family composition.

Failure, by the family, to report the absence of the children may result in termination from the program.

Absent Head, Spouse, or Co-head

YHA Policy

When a single parent is absent from the household for an extended period (60 days) as a result of imprisonment, etc. and another adult moves into the home to care for the remaining members, the rental assistance may be terminated. In extenuating cases where the YHA approves the temporary absence, the family composition may be modified to include the name of the temporary guardian as temporary head of household. The PHA shall screen the guardian under the same criteria that it screens a live-in aide. The temporary guardian's income will not be included in the family income. The single parent's name as head of household shall be temporarily removed and the file documented to explain the circumstances.

When the single parent returns to the unit, the guardian will vacate the unit, unless further documentation of need is verified. If the guardian remains after the return of the head of household and does not become a live-in aide, his/her income will be included in the calculation of family income. In addition to all the above, the guardian will be responsible for obtaining the owner's/landlord's approval before occupying the unit.

YHA will review the reason why the head of household is no longer present and may make a determination to cancel the assistance.

If all members of the household are absent for thirty (30) cumulative days during a calendar year, but have not moved from the unit, assistance will be terminated. In order to determine if the family is absent from the unit, YHA may secure various forms of verification including but not limited to: notice and letters to the family at the unit, telephone the family at the unit, interview the owner/landlord and neighbors, and/or verify if utilities are in service. In cases where the family has moved from the unit, assistance will be terminated in accordance with the procedures set forth further in this plan.

When the family consists of only one member and that person vacates the unit to go into a hospital or nursing home for a period of more than two (2) months, the assistance will

be terminated, if the person will not be returning within 60 days. If a medical source documents that the person is expected to return to the unit in 180 days or less, the person shall continue to receive assistance. If the person is not back in the unit within 180 days, assistance will be terminated.

Absent Spouse, Domestic Partner, or Co-head—Family Break-up

YHA Policy

If a spouse, domestic partner, or co-head is absent from the household for a period of thirty consecutive days, or forty-five days in a calendar year, and if there is some additional indicia that the family is breaking up, such as a spouse taking up another residence, initiating legal proceedings to resolve the relationship, or representing to YHA that the relationship is breaking up, then YHA may consider the situation to be a family break-up and then determine which family members will continue to receive assistance as set forth above.

Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

YHA Policy

The YHA 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. If temporarily absent, the income of the person will be included. 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 and be removed from the lease and voucher.

Return of Permanently Absent Family Members

YHA Policy

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

3-I.M. LIVE-IN AIDE (24 CFR 5.403, 24 CFR 5.609, PIH 2010-51 and PIH 2013-13)

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services. It should be noted that the definition applies to a specific person (i.e., identified live-in aide).

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

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations under 24 CFR 5.609(b). Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, current members of the family cannot be reclassified as a live-in aide to have income excluded. A relative or any other live-in aide or live-in aides family 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 live-in aide has no rights or benefits under the program.

YHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. Although a health care provider must document the need for a live-in aide (which would result in the issuance of an additional bedroom size voucher), the live-in aide must be identified by the family and approved by the YHA first. For continued approval, the family must submit a new, written request-subject to YHA verification-at each annual reexamination.

The YHA may only approve one additional bedroom for a live-in aide. Although a live-in aide may have YHA-approved family member/s live with him/her in the assisted unit, no additional bedrooms will be provided for the family members of the live-in aide. The YHA must ensure that housing quality standards (HQS) will not be violated and that there will be no more than two people per bedroom or living/sleeping space in the unit in accordance with 24 CFR 982.401(d)(2)(ii). If the approval of additional family members of a live-in aide would result in the violation of HQS, the additional family members of the live-in aide may not be approved.

A live in aide may only reside in the unit with pre-approval from the YHA, after proper documentation of need is verified and screening has been completed.

The approval of a live-in aide shall increase the maximum permitted voucher size by 1-bedroom to accommodate the need for a live-in aide.

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 live-in aide and family will execute an acknowledgement that they are a live-in aide and they have no rights to the program.

The YHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

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

The person commits drug-related criminal activity or violent criminal activity; or

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

The person has violated any family obligations under the program as published under CFR 982.551;

The person has been convicted of manufacturing or producing methamphetamine, on the premises of an assisted housing project;

The person has been evicted from any federally subsidized housing program for any reason;

The person has been identified as someone who has to register as a sex offender.

The person cannot provide a current valid social security number, if needed.

The person fails to provide documentation to permit the YHA to conduct the required screening.

The person is not qualified to provide the needed care.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the YHA will be required to screen the live-in aide in accordance with the federal regulations and upon final determination will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

Types of Low-Income Families [24 CFR 5.603(b)]

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

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

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

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

Using Income Limits for Eligibility [24 CFR 982.201]

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

- *An extremely low-income family*
- *A very low-income family*
- *A low-income family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]*

YHA Policy

The YHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the YHA.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101
- A low-income family shall be used to determine the income limit for an eligible student and their parents in accordance with the ineligible student provisions.
- For Project-based units that converted through RAD.

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

YHA Policy

The YHA has established additional categories of eligible low-income families, and will use the income limit of 80% of median income for eligibility of project-based units that converted through RAD. In the case of tax credits that are part of the RAD financing, the YHA will use 60% of median income for eligibility.

Using Income Limits for Targeting [24 CFR 982.201]

At least 75 percent of the families admitted to the YHA's program during a YHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the YHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

Extremely low-income family. A very low-income family whose annual income does not exceed the higher of:

(1) The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or

Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

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

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or a noncitizen with eligible immigration status, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For adult citizens, nationals and eligible noncitizens the declaration must be signed by each adult. For child citizens, nationals, and eligible noncitizens, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for each child. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

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

YHA Policy

Family members who declare citizenship or national status will be required to provide additional documentation such as a birth certificate or other legal document.

Eligible Non-citizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with YHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

Residents that received immunity under the Presidential Declarations

Ineligible Non-citizens

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

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

Ineligible Families [24 CFR 512(a) and (b); 24 CFR 5.514(d), (e), and (f)]

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

YHA Policy

The YHA will not provide assistance to a family before the verification of at least one family member. The eligible member does not have to be an adult in order for the YHA to assist the family.

When YHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

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

Informal hearing procedures are contained in Chapter 16.

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

For new occupants joining the assisted family the YHA will be verified at the time they are added to the household.

If an individual qualifies for a time extension for the submission of required documents, the YHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

YHA Policy

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218] and PIH 2010-3 and PIH 2011-2, and PIH 2012-10 and streamlining]

Families are required to provide verification of Social Security Numbers for all family members if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial of admission or termination of tenancy.

The YHA must request the applicant and participant (including each member of the household), who are not exempt under **SSN Disclosure**, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of:

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

SSN Disclosure

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

- Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
 - A family that consists of a single household member (including a pregnant individual) who does not have eligible immigration status is **not eligible** for housing assistance and cannot be housed.
 - A family that consists of two or more household members **and at least one** household member that has eligible immigration status, is classified as a mixed family, and **is eligible** for prorated assistance in accordance with 24 CFR 5.520. The YHA may **not** deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.
- Existing program participants as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid. The YHA may confirm HUD's validation of the participant's SSN by viewing the household's *Summary Report* or the *Identity Verification Report* in the EIV system.
- Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.

Disclosure of SSNs is considered information subject to the Federal Privacy Act (5 USC 552a, as amended). In accordance with 24 CFR 5.212, the collection, maintenance, use, and dissemination of SSNs, any information derived from SSNs and income information must be conducted, to the extent applicable, in compliance with that Act and all other provisions of Federal, State, and local law.

There is no provision under HUD regulations which prohibit an individual (head of household with other eligible household members) with ineligible immigration status from executing a lease or other legally binding contract. However, some state laws prohibit an individual with ineligible immigration status from executing a contract (i.e. lease or other legal binding documents). If this is the case in your state, the family must **not** be admitted into the program.

Penalties for Failure to Disclose and/or Provide Documentation of the SSN

In accordance with 24 CFR 5.218, the following penalties apply for noncompliance with the SSN disclosure and documentation requirements:

- a. **Applicants.** The YHA must deny the eligibility of an assistance applicant if s/he (including each member of the household required to disclose his/her SSN) does not disclose a SSN and/or provide documentation of such SSN. However, if the family is otherwise eligible to participate in the program, the family may maintain his/her position on the waiting list for a period of time as determined by the YHA. The YHA should prescribe in its policies, the maximum time the family may remain on the waiting list, pending disclosure of requested information. If all household

members have not disclosed their SSN at the time a unit becomes available, the YHA must offer the available unit to the next eligible applicant family on the waiting list.

If the YHA determines that the assistance applicant is otherwise eligible to participate in a program, the assistance applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide the documentation to verify the SSN of each member of the household.

If a child under the age of 6 years was added to the assistance applicant household within the 6-month period prior to the household's date of admission (or, for the HCV program, the date of voucher issuance), the assistance applicant may become a participant, so long as the documentation required is provided to the YHA within 90 calendar days from the date of admission into the program (or, for the HCV program, the effective date of the Housing Assistance Payment contract). The YHA must grant an extension of one additional 90-day period if the YHA determines that, in its discretion, the assistance applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the assistance applicant. If the applicant family fails to produce the documentation required within the required time period, the processing entity must follow the provisions of § 5.218 which includes termination of the family from the program.

- b. **Participants.** The YHA must terminate the assistance of Section 8 program participants (the entire household) and terminate the tenancy of Public Housing participants (the entire household) if s/he (including each member of the household required to disclose his/her SSN) does not disclose his/her SSN and provide the required documentation.

However, if the family is otherwise eligible for continued assistance or tenancy in the program, the YHA, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period **not to exceed** 90 calendar days from the date the YHA determined the family noncompliant with the SSN disclosure and documentation requirement, if the PHA determines:

1. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and
2. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.

If the family is unable to comply with the requirements by the specified deadline, the YHA must terminate the tenancy or assistance, or both of the entire family.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or co-head, 18 years or older, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The YHA must deny admission to the program if any adult member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06]

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

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with YHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

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

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the YHA will rely on the following definitions [FR 4/10/06, p. 18148].

Dependent Child

In the context of the student eligibility restrictions, *dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or

is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

Independent Student

YHA Policy

The YHA will consider a student “independent” from his or her parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

The individual is of legal contract age under state law.

The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

Be at least 24 years old by December 31 of the award year for which aid is sought

Be an orphan or a ward of the court through the age of 18

Be a veteran of the U.S. Armed Forces

Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)

Be disabled

Be a graduate or professional student

Be married

The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents’ most recent tax forms.

The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

The YHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

Institution of Higher Education

The YHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education* (see Exhibit 3-2).

Parents

YHA Policy

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

Person with Disabilities

The YHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

Veteran

YHA Policy

A *veteran* is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the YHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the YHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

YHA Policy

For any student who is subject to the 5.612 restrictions, the YHA will:

Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program

Determine whether the student is independent from his/her parents in accordance with the definition of *independent student* in this section

Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

If the YHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the YHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

Determining Parental Income Eligibility

YHA Policy

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of *independent student* in this section, the YHA will determine the income eligibility of the student's parents as follows:

If the student's parents are married and living together, the YHA will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, the YHA will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, the YHA will obtain an income declaration and certification of income from each parent.

If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the YHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The YHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, the YHA will use the low-income limits for the jurisdiction in which the parents live.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

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

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

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list,
- Denying or withdrawing a voucher,
- Not approving a request for tenancy or refusing to enter into a HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

Prohibited Reasons for Denial of Assistance [24 CFR 982.202(b)]

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

- Age, handicap, disability, race, color, religion, sex, ancestry or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the YHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock

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- Whether the family includes children
 - Whether a family decides to participate in a family self-sufficiency program
 - If the applicant/participant is a victim under the Violence Against Women’s Act (VAWA) provisions.
 - Sexual Orientation

3-III.B. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING [VAWA 2013]

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program “on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.”

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

Notification

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a notice of rights and the form HUD-50066 at the time the applicant is denied.

YHA Policy

The YHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the YHA’s policies. Therefore, if the YHA makes a determination to deny assistance to an applicant family, the YHA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the form HUD-50066. The YHA will request that an applicant wishing to claim protection under VAWA notify the YHA within 10 business days.

- That an applicant or participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

As used in VAWA:

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

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- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
 - The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.
 - The term affiliated individual means, with respect to a person: VAWA 2013 defines an “affiliated individual,” with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis, or any individual, tenant, or lawful occupant living in the household of that individual.
 - The term *perpetrator* means a person who commits an act of domestic violence, dating violence or stalking against a victim.

YHA Policy

The YHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g. poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the YHA’s policies. Therefore, if the YHA makes a determination to deny admission to an applicant family, the YHA will include in its notice of denial:

A description of YHA confidentiality requirements

A request that an applicant wishing to claim this protection submit to the YHA documentation meeting the specifications below with her or his request for an informal review (see section 16-II.D)

Documentation

Victim Documentation

YHA Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, the YHA will

request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse, if known and there is no fear of retaliation. The documentation may consist of any of the following:

A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence or stalking.

A police or court record documenting the domestic violence, dating violence, or stalking.

Documentation signed by a person who has assisted the victim in addressed domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, mental health professional or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in the question are bona fide incidents of abuse. The victim must also sign the documentation.

Perpetrator Documentation

YHA Policy

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

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

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

Time Frame for Submitting Documentation

YHA Policy

The applicant must submit the required documentation with his or her request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, the YHA will grant an extension of 10 business days,

and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the YHA determines that the family is eligible for assistance, no informal review will be scheduled and the YHA will proceed with admission of the applicant family.

YHA Confidentiality Requirements

All information provided to the YHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may either be entered into any shared database nor provided to any relative identity, except to the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

YHA Policy

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

Goals and Objectives

This policy has the following principal goals and objectives:

- A. Maintaining compliance with all applicable legal requirements imposed by VAWA;
- B. Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, or stalking who are assisted by YHA;
- C. Providing and maintaining housing opportunities for victims of domestic violence dating violence, or stalking;
- D. Creating and maintaining collaborative arrangements between YHA, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence and stalking, who are assisted by YHA; and

Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking, affecting individuals assisted by YHA.

3-III.C. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

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

- Any member of the household has been evicted from federally-assisted housing in the last 5 years for drug-related criminal activity. HUD permits but does not require the YHA to admit an otherwise-eligible family if the household member has completed a YHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

YHA Policy

The YHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 5 years for drug-related criminal activity, if the YHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the YHA, or the person who committed the crime, is no longer living in the household.

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

YHA Policy

Currently engaged in is defined as any use of illegal drugs during the previous year.

- The YHA 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.

YHA Policy

In determining reasonable cause, the YHA 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. The YHA 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 on the premises of federally assisted housing
- Any household member is subject to a registration requirement under a state sex offender registration program. The YHA will use the Dru Sjodin National Sex Offenders website to confirm that applicants and federal housing assistance recipients are not lifetime registered sex offenders.
- If a family member has been convicted of manufacturing or producing methamphetamine (speed) on an assisted housing site, Section 8 housing, or in Public Housing.
- If the household member is or was engaged in criminal activity that would be detrimental to the program or to the best interest of administration of the program by YHA.

3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

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

Criminal Activity [24 CFR 982.553]

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

YHA Policy

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

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the YHA (including a YHA employee or a YHA contractor, subcontractor, or agent).

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

Conviction for drug-related or violent criminal activity within the past 5 years.

Circumstantial evidence, a preponderance of evidence, or any arrests for drug-related or violent criminal activity within the past 5 years.

Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

If on probation or parole for any conviction, assistance will be denied until discharged from probation or parole.

If incarcerated for any conviction, assistance will be denied until at least five years after release.

Convictions of any household member for crimes of physical violence including but not limited to intentionally or recklessly causing another's death, arson, rape, sexual assault and convictions which require one to register as a sex offender.

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

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

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

YHA Policy

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

The YHA **will** deny assistance to an applicant family if:

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

The family does not provide complete and true information to the YHA.

Any family member has been evicted from, had program violations, or has seriously or repeatedly violated any lease terms from any federally assisted housing in the last five years.

A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination and denial of assistance is not mandatory. However, YHA will determine whether the family has committed serious or repeated violations of the lease on available evidence and may terminate or deny assistance, require that the household member who participated in or was responsible for the offense no longer reside in the unit or require the family to repay any debt owed.

Serious or repeated lease violations will include, but are not to be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Any PHA has ever terminated assistance under the voucher program for any member of the family for violation of the family obligations within the past five years;

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

The family owes rent or other amounts to any PHA, or owner, in connection with the HCV, Certificate, Moderate Rehabilitation or public 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. All family members age eighteen and over must sign HUD-52575 "Debts Owed To Public Housing Agencies and Terminations".

The family has breached the terms of a repayment agreement entered into with the YHA or other PHA, 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 will be given the opportunity to pay the debt within ninety days of the eligibility interview. If the family fails to meet their obligation to repay the debt, the applicant will be denied assistance.

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

A family member has engaged in or threatened violent or abusive behavior toward YHA personnel in the last 10 years.

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

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

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

3-III.E. SCREENING

Screening for Eligibility

YHA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the YHA in complying with HUD requirements and YHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the YHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

YHA Policy

The YHA will perform a criminal background check through local law enforcement for every adult household member. The YHA will perform a check on the National Sex Offenders web site for every adult household member.

The YHA may require a criminal background check through other law enforcement entities if local information is not available. The YHA may use Tenant PI or 3rd party services for screening.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the YHA will request the applicant to be fingerprinted and will request the information from the National Crime Information center (NCIC).

YHA is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender

program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

YHA will verify the information provided by the applicant by searching the Dru Sjodin National Sex Offender Database. The Dru Sjodin National Sex Offender Database is an online, searchable database, hosted by the Department of Justice, which combines the data from individual state sex offender registries. The website for the database is located at: <http://www.nsopw.gov>.

A record of this screening, including date performed, will be retained. YHA must destroy the results of the search in accordance with 24 CFR 5.903 (g) unless required by other provisions of the law to retain the documents used to determine eligibility. If required to retain, YHA must retain the results of the search, along with the application, for a period of three years if the applicant is denied housing or, if the applicant is admitted to the program, for the term of tenancy plus three years.

If the YHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the YHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information **prior to a denial of admission**. The family will be given 10 business days to dispute the accuracy and relevance of the information. [24 CFR 5.903(f) and 5.905(d)]. The record will be provided to the applicant in person upon presentation of valid government-issued photo identification. The family must be given the opportunity and may remove the life-time sex offender to gain eligibility status for the other members. YHA will require documentation of the removal in accordance with verification requirements.

Screening for Suitability as a Tenant [24 CFR 982.307]

The YHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The YHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

YHA Policy

The YHA will not conduct additional screening to determine the applicant's suitability for tenancy.

Criminal background checks will be performed at the following points:

A. Application for assistance

An initial criminal background screening will be performed for all family members as a part of the process of determining apparent eligibility for the Section 8 program. The family will not be wait listed until the family has been determined apparently eligible. Apparent eligibility will not be determined until the YHA has reviewed the results of the criminal background screening.

B. Final Eligibility Determination

When the family's name comes to the top of the wait list, before the family is offered a voucher, a criminal background screening will be completed to determine whether any violent criminal activity or drug-related criminal activity has occurred between wait listing and final eligibility determination.

C. Investigation Initiated by a Tip, Referral, or Complaint

Upon receiving a tip, referral, or complaint, including information left on the YHA Fraud Hotline or other source, a criminal background screening may be performed if it is possible that the screening may provide information pertinent to the investigation.

The owner is responsible for screening and selection of the family to occupy the owner's unit. The YHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the YHA to provide prospective owners with the family's current and prior address (as shown in YHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the YHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

The YHA may not disclose to the owner any confidential information provided to the YHA by the family in response to a YHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation
[24 CFR 5.2007(a)(4)].

YHA Policy

The YHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, when written request has been received. **The YHA will not provide any additional information to the owner/project-based manager, such as tenancy history, criminal history, credit background, etc.**

3-III.F. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

YHA Policy

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

Preponderance of the evidence is defined as the greater weight of the evidence; that is, evidence that you believe because it outweighs or overbalances in your mind the

evidence opposed to it. A preponderance means evidence that is more probable, more persuasive, or of greater probative value. It is the quality of the evidence that must be weighed. Quality may, or may not, be identical with (quantity)(the greater number of witnesses).

Consider all evidence. In determining whether an issue has been proved by a preponderance of the evidence, you should consider all of the evidence, regardless of who produced it.

Equally balanced. If the weight of the evidence is equally balanced, or if you are unable to determine which side of an issue has the preponderance, the party who has the burden of proof has not established such issue by a preponderance of the evidence.

Consideration of Circumstances [24 CFR 982.552(c)(2)]

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

YHA Policy

The YHA will consider the following factors prior to making its decision:

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

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

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities

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

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

VASH will only consider over-income and lifetime sex-offender for ineligibility.

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

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

YHA Policy

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

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

The YHA may terminate assistance or an owner/manager may bifurcate the lease to terminate assistance to remove a lawful occupant or tenant who engages in criminal acts of violence to family members or others without terminating assistance/evicting victimized lawful occupants.

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

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the YHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

YHA Policy

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

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

Eligible for Assistance

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

If the YHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe (1) the reasons for which assistance has been denied (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

YHA Policy

The family will be notified of a decision to deny assistance in writing within 20 business days of the determination.

If a YHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the YHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The YHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)]

YHA Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the YHA will notify the family in writing of the proposed denial and upon request, will provide a copy of the record to the applicant and to the subject of the record. The family will be given 7 days to dispute the accuracy and relevance of the information. If the family does not contact the YHA to dispute the information within that 7 day period, the YHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

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

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

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

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

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(8)], which defines developmental disability in functional terms as:

A severe, chronic disability of a person 5 years of age or older which:

 - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - Is manifested before the person attains age twenty-two;
 - Is likely to continue indefinitely;
 - Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; *and*
 - Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.”
- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

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

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

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

(4) *Is regarded as having an impairment* means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937

Summary

On December 30, 2005, HUD published a final rule (FR-5036-F-01), entitled, “Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937,” implementing section 327 of the Appropriations Act of Fiscal Year (FY) 2006.

The final rule became effective January 30, 2006. In brief, the law and final rule require that if a student is enrolled at an institution of higher education, is under the age of 24, is not a veteran, is unmarried and does not have a dependent child, is individually ineligible for section 8 assistance, or the student’s parents are, individually or jointly, ineligible for assistance, no section 8 assistance can be provided to the student.

To assist public housing agencies (PHAs) in implementing the new law and final rule, and to ensure that section 8 assistance is provided to those truly in need of and eligible for assistance, the Department issued supplement guidance on April 10, 2006, entitled, “Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplemental Guidance.”

Following are two groups of questions and answers: Group I and Group II concerning Section 327 of the Act and the implementing final rule. Group III is definitions.

Group I:

- Section 8 eligibility
- Income determinations
- Rent

Group II:

- Applicability
- Agency policies
- Reexamination of Family Income
- Reexamination of Family Income and Termination of Assistance
- Pro-ration of Assistance

Group III:

- HCV Student Rule Definitions

Group I: Section 8 Eligibility, Income Determinations, and Rent

	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
1	Sections 327(a) and (b)	Section 5.612 and 5.609(b)(9)	Do the Act and final rule apply to the Public Housing program?	No. The Act and the implementing final rule (FR-5036-F-01) do not apply to the Public Housing program. The Act and final rule apply only to Section 8 programs.
2	Sections 327(a) and (b)	Section 5.612 and 5.609(b)(9)	Do the Act and final rule apply to students that currently reside with parents in a section 8 rental assisted unit or students applying for section 8 assistance with their parents?	No. The new law and final rule do not apply to these students. The law and final rule focus on students who are under the age of 24, are not veterans, are unmarried, or are without children who seek or receive section 8 assistance separate from their parents.
3	Section 327(a)(1)	Section 5.612(a)	Do the student eligibility requirements apply to full and part-time students who are enrolled at an institution of higher education?	Yes. The eligibility requirements apply to both full and part-time students enrolled at an institution of higher education, as defined under 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).
4	Section 327(a)(1)-(6)	Section 5.612(a)-(f)	Do the Act and final rule provisions mean that a student enrolled at an institution of higher education who is under the age of 24, not a veteran, unmarried, and does not have any dependent children applying for Section 8 assistance in the Section 8 program is ineligible for Section 8 assistance?	Yes. The Act and final rule provisions mean that a student enrolled at an institution of higher education who is under the age of 24, not a veteran, unmarried, and does not have any children IS NOT ELIGIBLE for Section 8 programs, jointly, are income eligible for Section 8 assistance.

	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
5	Section 327(a)(6)	Section 5.612(f)	Concerning the eligibility of parents, individually or jointly, do parents have to meet all HUD program eligibility requirements in order for the student to be eligible for Section 8 housing assistance?	No. Since Section 327 is focused on income eligibility of a higher education student, the Department interprets the section's reference to the eligibility of the parents to also refer to income eligibility.

	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
6	Section 327(a)(6)	Section 5.612(f)	Also concerning the eligibility of parents, individually or jointly, how does the PHA know whether to determine the eligibility of the parents “individually” or “jointly”? Are there any established criteria a PHA may use in making this determination?	<p>PHAs may adopt and implement the following criteria for determining whether to obtain the declaration and certification of income from parents, individually or jointly.</p> <ul style="list-style-type: none"> • If the student’s parents are married and living with each other, obtain the declaration and certification of income from each parent. • If he student’s parent is widowed or single, obtain the declaration and certification of income from that parent. • If the student’s parents are divorced or separated, obtain the declaration and certification of income from each parent. • If the student has been living with one of his or her parents and has not had contact with or does not know where to contact his or her other parent, obtain from the student a certification under penalty of perjury, addressing the circumstances (including a statement hat the student has not received financial assistance from the parent) and obtain from the parent whom the student has been living or has contact with the declaration and certification of income.
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	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
7	Section 327(a)(6)	Section 5.612(f)	In determining the eligibility of the parent(s) to receive assistance, which HUD Income Limit area should the PHA use: the income limit for the area where the student intends to reside, or the income limit for the area where the parent(s) currently resides? For example, if the student is applying for Section 8 housing assistance in Johnson City, Tennessee, but the parent(s) lives in New York City, New York, which HUD Income Limit area should be used in determining the parent(s) program eligibility?	The PHA should use the Income Limit for the area where the parent(s) resides (24 CFR 982.201(b)(4)). In the example provided, the PHA should use the income limit for the area in New York where the parent(s) lives.
8	Section 327(a)(6)	Section 5.612(f)	Which income limit (i.e., extremely low income, very-low income, or low income) should a PHA use in determining the income eligibility of the parent(s)?	Both students and parents must meet the low-income limit.
9	Section 327(a)(6)	Section 5.612(f)	How should the PHA define parents? What if the student lives with a grandparent, aunt, uncle, guardian, etc., do they have to meet the qualifications also?	For purposes of the student eligibility restrictions, and consistent with longstanding HUD policy regarding eligibility for the section 8 programs, the term "parents" means the biological or adoptive parents, or guardians (e.g., stepparents, grandparents, aunt/uncle, godparents, etc.), or such other definition as may be adopted by the PHA, Owner, or Manager through appropriate amendment to its admissions policies.

	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
10	Section 327(a)(6)	Section 5.612(f)	<p>In admitting college students to Section 8 rental programs, it appears that the PHA will now have to determine the eligibility of the:</p> <ol style="list-style-type: none"> 1. Student 2. Parent(s), unless the income of demonstrate to the absence of, or his or her independence from Parents 3. Student family household 	<p>Correct. The PHA will have to determine the eligibility of each student family member, parents (in cases where the student has not established independence from parents), and the student family household as a unit. For example, three college students applying for Section 8 rental housing assistance, as a family unit, would have to be income eligible for Section 8 assistance (24 CFR 982.201). Also, under 5.612(f), each student individually would have to be eligible and the parent(s) of each student would have to be the student's parents is not relevant or the student can eligible for Section 8 rental assistance, unless the student can show the income of the student's parents is not relevant or the student can demonstrate to the absence of, no financial support from parent(s) or his or her independence from, parents.</p>

	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
11	Section 327(b)	Section 5.609(b)(9)	What exactly are the types of “financial assistance” under the Higher Education Act of 1965 that must be considered as income under Section 327?	Types of financial assistance under the Higher Education Act of 1965 would include: the Pell Grant, the Federal Supplemental Educational Opportunity Grant (FSEOG), Academic Achievement Incentive Scholarships, State assistance under the Leveraging Educational Assistance Partnership Program, the Robert C. Byrd Honors Scholarship Program, and federal Work-Study (FWS) programs. Although considered “financial assistance” under the Higher Education Act of 1965, Perkins loans, Stafford loans, and Plus loans are not considered income for purposes of determining student eligibility for Section 8 housing assistance. For complete information, see Title IV, Part A, under the Higher Education Act of 1965, as amended, located at: http://www.ed.gov/policy/highered/leg/hea98/index.html
12	Section 327(b)	Section 5.609(b)(9)	Is the income students receive from federal Work-Study (FWS) programs considered earned income for purposes of determining income eligibility?	Yes. It is considered financial assistance under the Higher Education Act of 1965. If its financial assistance under the Act, then it is counted as income under 327.

Group II: Applicability, Agency Policies, Verifications/Reexaminations, Continuation and Termination of Assistance (24 CFR 982.552(b)(5)).

	Category	Question	Answer
13	Applicability	Will the students currently participating in HUD’s Section 8 program be grandfathered into the program? Does the rule apply to existing Section 8 student participants?	No. Neither section 327 nor the final rule provides for a grandfathering clause for current Section 8 student participants. Therefore, section 327 and the final rule apply to existing Section 8 student participants. However, as previously stated, the law and final rule do not focus on students residing with their parents in a section 8 assisted unit or students who reside with their parents who are applying to receive section 8 assistance. Rather, it focuses on certain students who seek or receive Section 8 assistance separate from their parents.
14	Agency Policies	Do PHAs have to update their Administrative Policies (24 CFR 982.54) before implementing Section 327 and final rule?	Yes. PHAs must immediately update their Administrative Plans to reflect discretionary policies concerning the new income eligibility restrictions for students (24 CFR 982.54).
15	Verifications	Will PHAs now be required to obtain income information on the parents, in determining the eligibility of parents for Section 8 rental assistance?	Yes. To satisfy this requirement, PHAs may accept from a parent (s) a declaration <and> certification of income, which includes a penalty of perjury. The PHA retains the right to request and review, supporting documentation at any time the PHA determines the declaration, certification, and eligibility are in question. Supporting documentation includes, but is not limited to: IRS tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, Temporary Assistance to Needy Families (TANF) award letter, Social Security Administration (SSA) award letter, other official and authentic documents from a federal, State, or local agency.

	Category	Question	Answer
16	Verifications	Since Section 8 assistance can no longer be provided to certain students (24 CFR 5.612), and this may include a parent’s income reexamining eligibility test, does this mean that PHAs will have to verify the parent’s income eligibility annually, during reexamination, to determine whether the student continues to be eligible for the program after admissions? Prior to the effective date of the final rule, PHAs administering Section 8 programs did not have to verify the income of eligibility (i.e., family meets income limits) of the family after admissions.	PHAs administering the Section 8 program will have to verify the income eligibility of the parent(s), at least annually, to determine whether the student remains eligible for the Section 8 program. In accordance with 24 CFR 982.552(b)(5), if after the parent’s income, the student is determined to be ineligible for Section 8 assistance, as specified in 24 CFR 5.612, the PHA must terminate assistance to that family member (i.e., student). Again, the family is entitled to an informal hearing to discuss the termination of assistance.
17	Reexamination of Family Income	The preamble of the final rule “strongly encourages PHAs, Owners, and Management Agents administering Section 8 programs to, as soon as it is practicable, recertify existing Section 8 participants that have family members that may meet the requirements of Section 327 of the Act.” What does this mean? What happens if the PHA cannot recertify Section 8 participants until the family’s next annual recertification? Will the PHA be penalized?	HUD understands that some PHAs may not have the resources or the capability to recertify participant family income until the family’s next annual recertification. However, in order to remedy the problem of ineligible college students participating in HUD’s Section 8 rental assistance programs, as quickly as possible, the Department recommends recertification sooner rather than later (i.e., as soon as it is practicable). If a PHA is unable to recertify family income until the next annual reexamination, that PHA will not be penalized. The latest time, however, that the eligibility and income requirements can be implemented is at the time of annual reexamination.
18	Reexamination of Family Income and Termination of Assistance	As it concerns 24 CFR 982.552(b)(5) of the final rule, if after reexamining a student household’s income (the student’s or parent(s) income), the PHA determines the student is no longer eligible for Section 8 rental assistance, is the student family entitled to a grievance hearing?	Yes. Applicant and participant student households are entitled to request and receive an informal hearing to discuss the reasons for the denial or termination of assistance, in accordance with established program procedures and requirements (See 24 CFR 982.554 and 24 CFR 982.555, respectively).

	Category	Question	Answer
19	Continuation and Termination of Assistance	Scenario I: Three full-time college students apply for Section 8 housing. Two are eligible under Section 327(a) of the Act and 24 CFR 5.612 of the final rule, and one student is ineligible. Does the PHA deny Section 8 rental housing assistance to the entire family—all three students—or can the student family choose to remove the ineligible student from the family application so the two eligible students can be admitted to the program?	In scenario I described, the PHA will notify the applicant student family of its decision to deny assistance to the student household because of one of the student 's ineligibility for Section 8 assistance. The notice will state that the student household may request an informal review of the PHA's decision and how to obtain the review (24 CFR 982.554). During the informal review, the student family may choose to remove the ineligible student from the family application for assistance so that the two eligible students may be admitted to the program. The PHA must notify the student household of the PHA's final decision after the informal review, including a brief statement of the reasons for the final decision.
20	Continuation and Termination of Assistance	Scenario II: Three full-time college students are residing in a Section 8 rental assistance unit. Two are eligible under Section 327(a) of the Act and 24 CFR 5.612 of the final rule, and one student is ineligible. Does the PHA terminate the Section 8 rental assistance to the entire family—all three students—or can the student family choose to remove the ineligible student from the student household so the two eligible students can continue to be assisted under the program.	In scenario II described, the PHA will notify the student household of its decision to terminate Section 8 rental assistance to the family. The notice will contain a brief reason for the PHA's decision (i.e., ineligibility of a college student 24 CFR 5.612) and inform the student household of its right to an informal hearing. For the housing choice voucher (HCV) program, eligible students residing in households with ineligible students shall not have their assistance terminated, but shall be issued a voucher to move with continued assistance in accordance with program regulations or shall be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit. HUD will issue separate guidance for PHAs administering the Moderate Rehabilitation, Project-Based Certificate, and Project- Based Voucher programs.
21	Pro-ration of Assistance	Can the PHA prorate the student household's assistance, based on a percentage of the total number of members of the family household that are eligible for assistance?	No. PHAs may not prorate assistance to family households composed of eligible and ineligible students.

Group III: HCV Student Rule Definitions

	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
22	Section 327(a)(1)	Section 5.612(a)	What is the definition of an institution of higher education under section 102 of the Higher Education Act of 1965?	Also provided in Appendix A of the supplemental guidance, a complete definition of an institution of higher education under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) can be found on GPO Access, United States Code Main Page at: http://www.gpoaccess.gov/uscode/index.html .
23	Section 327(a)(3)	Section 5.612(c)	What is the definition of a “veteran”?	For purposes of administering the student eligibility restrictions, PHAs may find it useful to adopt the term “veteran” as used by the Department of Veterans Affairs (38 U.S.C. 101(2)): (2) the term “veterans” means a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable. A complete definition of veteran (38 U.S.C. 101) can be found on GPO Access, United States Code Main Page at: http://www.gpoaccess.gov/uscode/index.html .

	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
24	Sections 327(a) and (b)	Sections 5.612(e) and 5.609(b)(9)	As used in the Act and final rule, how are the terms “dependent child” and “dependent children” defined?	“Dependent child” and “dependent children,” as used in the Act and final rule, have the same meaning as provided at 24 CFR 5.603: Dependent: A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or a person with a disability, or is a full-time student. To be sure, the child or children must reside in the student family household.
25	Section 327(b)	Section 5.609(b)(9)	Does financial assistance include federal, State, and local grants, scholarships, and loans? Section 327(b) states: “any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.”	Student financial assistance, as used in the Act and final rule, means any assistance (in excess of amounts received for tuition) that an individual receives: <ol style="list-style-type: none"> (1) Under the Higher Education Act of 1965 (2) From private sources (3) From an institute of higher education <p>Such financial assistance may include federal, State, and local grants and scholarships (athletic and academic), fellowships and student educational financial assistance from parents, guardians, or other persons residing outside of the student family household. HUD has interpreted the term “financial assistance,” as used in Section 327(b) to not include loan proceeds for the purpose of determining income.</p>

	Section 327 of the FY 2006 Appropriations Act	Final Rule, FR-5036-F-01	Question	Answer
26	Section 327(b)	Section 5.609(b)(9)	In the new law, how is student to be defined?	Student means all students enrolled either full-time or part-time at an institution of higher education. The new law does not exempt part-time students.
27	Section 327(b)	Section 5.609(b)(9)	What is included in tuition and fees? Does it include other fees charged by the educational institution?	Tuition and fees shall have the meaning given this term by the institution of higher education in which the student is enrolled. Yes, it does include fees.