

the decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on:

(i) The family's admission to or continued occupancy in public housing; or

(ii) The family's position on or placement on a public housing waiting list.

(2) The protection provided by paragraph (d)(1) of this section shall not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area.

(3) The protection provided by paragraph (d)(1) of this section shall apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project.

(e) *Appropriateness of dwelling unit to family size.* This part may not be construed to require a PHA to offer a dwelling in a designated project to any family who is not of appropriate family size for the dwelling unit. The temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size.

(f) *Prohibition of evictions.* Any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate the unit because of the designation of the project, or because of any action taken by HUD or the PHA in accordance with this part.

(g) *Prohibition of coercion to accept supportive services.* As with other HUD-assisted housing, no disabled family or elderly family residing in designated housing may be required to accept supportive services made available by the PHA under this part.

(h) *Availability of grievance procedures in 24 CFR part 966.* The grievance procedures in 24 CFR part 966, subpart B, which applies to public housing tenants, is applicable to this part.

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

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AUTHORITY: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z-3, and 3535(d).

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Subpart A—Applicability, Definitions, Equal Opportunity Requirements

SOURCE: 65 FR 16724, Mar. 29, 2000, unless otherwise noted.

§ 960.101 Applicability.

This part is applicable to public housing.

§ 960.102 Definitions.

(a) Definitions found elsewhere:

(1) *General definitions.* The following terms are defined in 24 CFR part 5, subpart A: 1937 Act, drug, drug-related criminal activity, elderly person, federally assisted housing, guest, household, HUD, MSA, premises, public housing, public housing agency (PHA), Section 8, violent criminal activity.

(2) *Definitions under the 1937 Act.* The following terms are defined in 24 CFR part 5, subpart D: annual contributions contract (ACC), applicant, elderly family, family, person with disabilities.

(3) *Definitions and explanations concerning income and rent.* The following terms are defined or explained in 24 CFR part 5, subpart F (§ 5.603): Annual income, economic self-sufficiency pro-

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gram, extremely low-income family, low-income family, tenant rent, total tenant payment, utility allowance.

(b) *Additional definitions.* In addition to the definitions in paragraph (a), the following definitions and cross-references apply:

Alternative non-public housing rent. A monthly rent equal to the greater of—

(i) The applicable fair market rent, as defined in 24 CFR part 888, subpart A, for the unit; or

(ii) The amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.

(A) For the Public Housing Capital Fund, the amount of Capital Funds provided to the unit will be calculated as the per unit Capital Fund assistance provided to a PHA for the development in which the family resides for the most recent funding year for which Capital Funds have been allocated;

(B) For the Public Housing Operating Fund, the amount of Operating Funds provided to the unit will be calculated as the per unit amount provided to the public housing project where the unit is located for the most recent funding year for which a final funding obligation determination has been made;

(C) HUD will publish such funding amounts no later than December 31 each year.

Ceiling rent. See § 960.253(d).

Covered housing provider. For HUD's public housing program, "covered housing provider," as such term is in used HUD's regulations at 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), is the PHA.

Covered person. For purposes of this part, covered person means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Designated housing. See part 945 of this chapter.

Disabled families. See § 5.403 of this title.

Eligible families. Low income families who are eligible for admission to the public housing program.

Flat rent. See § 960.253(b).

Income-based rent. See § 960.253(c).

Mixed population development. A public housing development, or portion of a development, that was reserved for elderly and disabled families at its inception (and has retained that character). If the development was not so reserved at its inception, the PHA has obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly families and disabled families. These developments were formerly known as elderly projects.

Non-public housing over-income family. A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent. See subpart E of this part.

Over-income family. A family whose income exceeds the over-income limit. See subpart E of this part.

Over-income limit. The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in § 5.603(b) of this title, by a factor of 2.4. See § 960.507(b).

PHA plan. See part 903 of this chapter.

Residency preference. A preference for admission of persons who reside in a specified geographic area.

Tenant-based. See § 982.1(b) of this chapter.

[65 FR 16724, Mar. 29, 2000, as amended at 66 FR 28799, May 24, 2001; 81 FR 12372, Mar. 8, 2016; 81 FR 80815, Nov. 16, 2016; 88 FR 9669, Feb. 14, 2023]

§ 960.103 Equal opportunity requirements and protection for victims of domestic violence, dating violence, sexual assault, or stalking.

(a) *Applicable requirements.* The PHA must administer its public housing program in accordance with all applicable equal opportunity requirements imposed by contract or federal law, including the authorities cited in § 5.105(a) of this title.

(b) *PHA duty to affirmatively further fair housing.* The PHA must affirmatively

further fair housing in the administration of its public housing program.

(c) *Equal opportunity certification.* The PHA must submit signed equal opportunity certifications to HUD in accordance with § 903.7(o) of this title, including certification that the PHA will affirmatively further fair housing.

(d) *Protection for victims of domestic violence, dating violence, sexual assault, or stalking.* The PHA must apply the requirements in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).

[65 FR 16724, Mar. 29, 2000, as amended at 73 FR 72344, Nov. 28, 2008; 75 FR 66262, Oct. 27, 2010; 81 FR 80815, Nov. 16, 2016]

Subpart B—Admission

SOURCE: 66 FR 28799, May 24, 2001, unless otherwise noted.

§ 960.200 Purpose.

(a) This subpart states HUD eligibility and selection requirements for admission to public housing.

(b) See also related HUD regulations in this title concerning these subjects:

- (1) 1937 Act definitions: part 5, subpart D;
- (2) Restrictions on assistance to non-citizens: part 5, subpart E;
- (3) Family income and family payment: part 5, subpart F;
- (4) Public housing agency plans: part 903;
- (5) Rent and reexamination: part 960, subpart C;
- (6) Mixed population developments: part 960, subpart D;
- (7) Occupancy by over-income families or police officers: part 960, subpart E.

(8) Protection for victims of domestic violence, dating violence, sexual assault, or stalking, 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).

[66 FR 28799, May 24, 2001, as amended at 73 FR 72344, Nov. 28, 2008; 75 FR 66262, Oct. 27, 2010; 81 FR 80815, Nov. 16, 2016]

§ 960.201 Eligibility.

(a) *Who is eligible?* (1) Basic eligibility. An applicant must meet all eligibility requirements in order to receive housing assistance. At a minimum, the applicant must be a family, as defined in § 5.403 of this title, and must be income-eligible, as described in this section. Such eligible applicants include single persons.

(2) *Low income limit.* No family other than a low income family is eligible for admission to a PHA's public housing program.

(b) *Income used for eligibility and targeting.* Family annual income (see § 5.609) is used both for determination of income eligibility under paragraph (a) and for PHA income targeting under § 960.202

(c) *Reporting.* The PHA must comply with HUD-prescribed reporting requirements that will permit HUD to maintain the data, as determined by HUD, necessary to monitor compliance with income eligibility and targeting requirement.

EFFECTIVE DATE NOTE: At 88 FR 9670, Feb. 14, 2023, § 960.201 was amended by revising paragraph (a)(1), effective Jan. 1, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 960.201 Eligibility.

(a) * * * (1) *Basic eligibility.* An applicant must meet all eligibility requirements in order to receive housing assistance. At a minimum, the applicant must be a family, as defined in § 5.403 of this title, must be income-eligible, as described in this section, and must meet the net asset and property ownership restriction requirements in § 5.618 of this title. Such eligible applicants include single persons.

* * * * *

§ 960.202 Tenant selection policies.

(a) *Selection policies, generally.* (1) The PHA shall establish and adopt written policies for admission of tenants.

(2) These policies shall provide for and include the following:

(i) Targeting admissions to extremely low income families as provided in paragraph (b) of this section.

(ii) Deconcentration of poverty and income-mixing in accordance with the PHA Plan regulations (see 24 CFR part 903).

(iii) Precluding admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the residents or the project environment;

(iv) Objective and reasonable policies for selection by the PHA among otherwise eligible applicants, including requirements for applications and waiting lists (see 24 CFR 1.4), and for verification and documentation of information relevant to acceptance or rejection of an applicant, including documentation and verification of citizenship and eligible immigration status under 24 CFR part 5; and

(v) Policies of participant transfer between units, developments, and programs. For example, a PHA could adopt a criterion for voluntary transfer that the tenant had met all obligations under the current program, including payment of charges to the PHA.

(b) *Targeting admissions to extremely low income families—*(1) *Targeting requirement.* (i) Not less than 40 percent of the families admitted to a PHA's public housing program during the PHA fiscal year from the PHA waiting list shall be extremely low income families. This is called the "basic targeting requirement."

(ii) To the extent provided in paragraph (b)(2) of this section, admission of extremely low income families to the PHA's Section 8 voucher program during the same PHA fiscal year is credited against the basic targeting requirement.

(iii) A PHA must comply with both the targeting requirement found in this part and the deconcentration requirements found in part 903 of this chapter.

(2) *Credit for admissions to PHA voucher program.* (i) If admissions of extremely low income families to the PHA's voucher program during a PHA fiscal year exceeds the 75 percent minimum targeting requirement for the PHA's voucher program (see 24 CFR 982.201(b)(2)), such excess shall be credited (subject to the limitations in paragraph (b)(2)(ii) of this section) against the PHA's basic targeting requirement for the same fiscal year.

(ii) The fiscal year credit for voucher program admissions that exceed the minimum voucher program targeting

requirement shall not exceed the lower of:

(A) Ten percent of public housing waiting list admissions during the PHA fiscal year;

(B) Ten percent of waiting list admission to the PHA's Section 8 tenant-based assistance program during the PHA fiscal year; or

(C) The number of qualifying low income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low income family means a low income family other than an extremely low income family.

(c) *Adoption and availability of tenant selection policies.* These selection policies shall:

(1) Be duly adopted and implemented;

(2) Be publicized by posting copies thereof in each office where applications are received and by furnishing copies to applicants or tenants upon request, free or at their expense, at the discretion of the PHA; and

(3) Be consistent with the fair housing and equal opportunity provisions of § 5.105 of this title; and

(4) Be submitted to the HUD field office upon request from that office.

§ 960.203 Standards for PHA tenant selection criteria.

(a) The tenant selection criteria to be established and information to be considered shall be reasonably related to individual attributes and behavior of an applicant and shall not be related to those which may be imputed to a particular group or category of persons of which an applicant may be a member. The PHA may use local preferences, as provided in § 960.206.

(b) Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points. (See 24 CFR 902.43(a)(5).) This policy takes into account the importance of screening to public housing communities and program integrity, and the demand for assisted housing by

families who will adhere to lease responsibilities.

(c) In selection of families for admission to its public housing program, or to occupy a public housing development or unit, the PHA is responsible for screening family behavior and suitability for tenancy. The PHA may consider all relevant information, which may include, but is not limited to:

(1) An applicant's past performance in meeting financial obligations, especially rent;

(2) A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants; and

(3) A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants. (See § 960.204.) With respect to criminal activity described in § 960.204:

(i) The PHA may require an applicant to exclude a household member in order to be admitted to the housing program where that household member has participated in or been culpable for actions described in § 960.204 that warrants denial.

(ii) The PHA may, where a statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.

(4) PHA tenant selection criteria are subject to 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking). In cases of requests for emergency transfers under VAWA, with the written consent of the victim of domestic violence, dating violence, sexual assault, or stalking, the receiving PHA may accept and use the prior covered housing provider's determination of eligibility and tenant screening and all related verification information, including form HUD 50058 (Family Report).

(d) In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the

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applicant's conduct (including the seriousness of the offense).

(1) In a manner consistent with the PHA's policies, procedures and practices referenced in paragraph (b) of this section, consideration may be given to factors which might indicate a reasonable probability of favorable future conduct. For example:

(i) Evidence of rehabilitation; and

(ii) Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs;

(2) *Consideration of rehabilitation.* (i) In determining whether to deny admission for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the PHA may 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.

(ii) If rehabilitation is not an element of the eligibility determination (see § 960.204(a)(1)), the PHA may choose not to consider whether the person has been rehabilitated.

[66 FR 28799, May 24, 2001, as amended at 73 FR 72344, Nov. 28, 2008; 75 FR 66262, Oct. 27, 2010; 81 FR 80815, Nov. 16, 2016]

§ 960.204 Denial of admission for criminal activity or drug abuse by household members.

(a) *Required denial of admission—*(1) *Persons evicted for drug-related criminal activity.* The PHA standards must prohibit admission of an applicant to the PHA's public housing program for three years from the date of the eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity.

However, the PHA may admit the household if the PHA determines:

(i) The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or

(ii) The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

(2) *Persons engaging in illegal use of a drug.* The PHA must establish standards that prohibit admission of a household to the PHA's public housing program if:

(i) The PHA determines that any household member is currently engaging in illegal use of a drug (For purposes of this section, a household member is "currently engaged in" the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current); or

(ii) The PHA determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(3) *Persons convicted of methamphetamine production.* The PHA must establish standards that permanently prohibit admission to the PHA's public housing program if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(4) *Persons subject to sex offender registration requirement.* The PHA must establish standards that prohibit admission to the PHA's public housing program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In the screening of applicants, the PHA must perform necessary criminal history background checks in the State where the housing is located and in other States where household members are known to have resided. (See part 5, subpart J of this title for provisions concerning access to sex offender registration records.)

(b) *Persons that abuse or show a pattern of abuse of alcohol.* The PHA must establish standards that prohibit admission to the PHA's public housing program if the PHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) *Use of criminal records.* Before a PHA denies admission to the PHA's public housing program on the basis of a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record. (See part 5, subpart J of this title for provisions concerning access to criminal records.)

(d) *Cost of obtaining criminal record.* The PHA may not pass along to the applicant the costs of a criminal records check.

§ 960.205 Drug use by applicants: Obtaining information from drug treatment facility.

(a) *Purpose.* This section addresses a PHA's authority to request and obtain information from drug abuse treatment facilities concerning applicants. This section does not apply to information requested or obtained from drug abuse treatment facilities other than under the authority of section 6(t).

(b) *Additional terms* used in this section are as follows:

(1) *Currently engaging in illegal use of a drug.* Illegal use of a drug occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

(2) *Drug abuse treatment facility.* An entity:

(i) That holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use; and

(ii) That is either an identified unit within a general care facility; or an entity other than a general medical care facility.

(c) *Authorization by household member for PHA to receive information from a*

drug abuse treatment facility. (1) The PHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head or spouse regardless of age, one or more consent forms signed by such household member that:

(i) Requests any drug abuse treatment facility to inform the PHA only whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use;

(ii) Complies with the form of written consent required by 42 CFR 2.31; and

(iii) Authorizes the PHA to receive such information from the drug abuse treatment facility, and to utilize such information in determining whether to prohibit admission of the household member to the PHA's public housing program in accordance with § 960.203. (See the Public Health Service Act, 42 U.S.C. 290dd-2, and implementing regulations at 42 CFR part 2, with respect to responsibilities of the drug abuse treatment facility.)

(2) The consent form submitted for a proposed household member must expire automatically after the PHA has made a final decision to either approve or deny the admission of such person.

(d) *PHA request for information from drug use treatment facility.* (1) The PHA may request that a drug abuse treatment facility disclose whether the drug abuse treatment facility has reasonable cause to believe that the proposed household member is currently engaging in the illegal use of a drug (as defined in § 5.100 of this title).

(2) The PHA's request to the drug abuse treatment facility must include a copy of the consent form signed by the proposed household member.

(3) A drug abuse treatment facility is not liable for damages based on any information required to be disclosed under this section if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd-2).

(4) The PHA is not obligated to request information from a drug treatment facility under this section, and is not liable for damages for failing to request or receive such information.

(5) A drug abuse treatment facility may charge the PHA a reasonable fee

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for information provided under this section. The PHA may not pass along to the applicant or tenant the costs of obtaining this information.

(e) *Prohibition of discriminatory treatment of applicants.* (1) A PHA may request information from a drug abuse treatment facility under paragraph (d) of this section only if the PHA has adopted and has consistently implemented either of the following policies, obtaining a signed consent form from the proposed household members:

(i) *Policy A—Request for all families.* Under Policy A, the PHA must submit a request for information to a drug abuse treatment facility in accordance with paragraph (d) of this section before admitting any family to the PHA's public housing program. For each such family, the request must be submitted for each proposed household member described in paragraph (c)(1) of this section.

(ii) *Policy B—Request for certain household members.* Under Policy B, the PHA must submit a request to a drug abuse treatment facility only with respect to each proposed household member:

(A) Whose criminal record indicates prior arrest or conviction for any criminal activity that may be a basis for denial of admission under § 960.205; or

(B) Whose prior tenancy records indicate that the proposed household member:

(1) Engaged in the destruction of property;

(2) Engaged in violent activity against another person; or

(3) Interfered with the right of peaceful enjoyment of the premises of other residents.

(4) The policy adopted by the PHA must be included in the PHA administrative plan and the PHA plan.

(f) *Records management and confidentiality.* Each PHA that receives information from a drug abuse treatment facility under this section must establish and implement a system of records management that ensures that any information which the PHA receives from the drug abuse treatment facility about a person:

(1) Is maintained confidentially in accordance with section 543 of the Pub-

lic Health Service Act (12 U.S.C. 290dd-2);

(2) Is not misused or improperly disseminated; and

(3) Is destroyed, as applicable:

(i) Not later than 5 business days after the PHA makes a final decision to admit the person as a household member under the PHA's public housing program; or

(ii) If the PHA denies the admission of such person as a household member, in a timely manner after the date on which the statute of limitations for the commencement of a civil action based upon that denial of admissions has expired without the filing of a civil action or until final disposition of any such litigation.

§ 960.206 Waiting list: Local preferences in admission to public housing program.

(a) *Establishment of PHA local preferences.* (1) The PHA may adopt a system of local preferences for selection of families admitted to the PHA's public housing program. The PHA system of selection preferences must be based on local housing needs and priorities as determined by the PHA. In determining such needs and priorities, the PHA shall use generally accepted data sources. Such sources include public comment on the PHA plan (as received pursuant to § 903.17 of this chapter), and on the consolidated plan for the relevant jurisdiction (as received pursuant to part 91 of this title).

(2) The PHA may limit the number of applicants that qualify for any local preference.

(3) PHA adoption and implementation of local preferences is subject to HUD requirements concerning income-targeting (§ 960.202(b)), deconcentration and income-mixing (§ 903.7), and selection preferences for developments designated exclusively for elderly or disabled families or for mixed population developments (§ 960.407).

(4) The PHA must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences.

(b) *Particular local preferences—*(1) *Residency requirements or preferences.* (i) Residency requirements are prohibited.

Although a PHA is not prohibited from adopting a residency preference, the PHA may only adopt or implement residency preferences in accordance with non-discrimination and equal opportunity requirements listed at § 5.105(a) of this title.

(ii) A residency preference is a preference for admission of persons who reside in a specified geographic area ("residency preference area"). A county or municipality may be used as a residency preference area. An area smaller than a county or municipality may not be used as a residency preference area.

(iii) Any PHA residency preferences must be included in the statement of PHA policies that govern eligibility, selection and admission to the program, which is included in the PHA annual plan (or supporting documents) pursuant to part 903 of this chapter. Such policies must specify that use of a residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

(iv) A residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

(v) Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area. The PHA may treat graduates of, or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

(2) *Preference for working families.* The PHA may adopt a preference for admission of working families (families where the head, spouse, or sole member, is employed). However, an applicant must be given the benefit of the working family preference if the head and spouse, or sole member is age 62 or older, or is a person with disabilities.

(3) *Preference for person with disabilities.* The PHA may adopt a preference for admission of families that include a

person with disabilities. However, the PHA may not adopt a preference for persons with a specific disability.

(4) *Preference for victims of domestic violence, dating violence, sexual assault, or stalking.* The PHA should consider whether to adopt a local preference for admission of families that include victims of domestic violence, dating violence, sexual assault, or stalking.

(5) *Preference for single persons who are elderly, displaced, homeless or a person with disabilities.* The PHA may adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

(6) *Preference for non-public housing over-income families.* The PHA may adopt a preference for admission of non-public housing over-income families paying the alternative non-public housing rent and are on a NPHOI lease who become an income-eligible low-income family as defined in § 5.603(b) of this title and are eligible for admission to the public housing program.

(c) *Selection for particular unit.* In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms. In selection of families to occupy units with special accessibility features for persons with disabilities, the PHA must first offer such units to families which include persons with disabilities who require such accessibility features (see §§ 8.27 and 100.202 of this title).

(d) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a resident family may not be provided a housing unit with two or more bedrooms.

(e) *Selection method.* (1) The PHA must use the following to select among applicants on the waiting list with the same priority for admission:

(i) Date and time of application; or
(ii) A drawing or other random choice technique.

(2) The method for selecting applicants must leave a clear audit trail that can be used to verify that each applicant has been selected in accordance

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with the method specified in the PHA plan.

[66 FR 28799, May 24, 2001, as amended at 81 FR 80815, Nov. 16, 2016; 88 FR 9670, Feb. 14, 2023]

§ 960.208 Notification to applicants.

(a) The PHA must promptly notify any applicant determined to be ineligible for admission to a project of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination.

(b) When a determination has been made that an applicant is eligible and satisfies all requirements for admission, including the tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined.

Subpart C—Rent and Reexamination

SOURCE: 65 FR 16726, Mar. 29, 2000, unless otherwise noted.

§ 960.253 Choice of rent.

(a) *Rent options*—(1) *Annual choice by family*. Once a year, the PHA must give each family the opportunity to choose between the two methods for determining the amount of tenant rent payable monthly by the family. The family may choose to pay as tenant rent either a flat rent as determined in accordance with paragraph (b) of this section, or an income-based rent as determined in accordance with paragraph (c) of this section. Except for financial hardship cases as provided in paragraph (d) of this section, the family may not be offered this choice more than once a year.

(2) *Relation to minimum rent*. Regardless of whether the family chooses to pay a flat rent or income-based rent, the family must pay at least the minimum rent as determined in accordance with § 5.630 of this title.

(3) *Relation to non-public housing over-income families*. Non-public housing over-income families must pay the alternative non-public housing rent, as

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applicable, as determined in accordance with § 960.102.

(b) *Flat rent*. The flat rent is determined annually, based on the market rental value of the unit as determined by this paragraph (b).

(1) The PHA must establish a flat rent for each public housing unit that is no less than 80 percent of the applicable Fair Market Rent (FMR) as determined under 24 CFR part 888, subpart A; or

(2) HUD may permit a flat rent of no less than 80 percent of an applicable small area FMR (SAFMR) or unadjusted rent, if applicable, as determined by HUD, or any successor determination, that more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used in paragraph (b)(1) of this section. If HUD has not determined an applicable SAFMR or unadjusted rent, the PHA must rely on the applicable FMR under paragraph (b)(1) or may apply for an exception flat rent under paragraph (b)(3).

(3) The PHA may request, and HUD may approve, on a case-by-case basis, a flat rent that is lower than the amounts in paragraphs (b)(1) and (2) of this section, subject to the following requirements:

(i) The PHA must submit a market analysis of the applicable market.

(ii) The PHA must demonstrate, based on the market analysis, that the proposed flat rent is a reasonable rent in comparison to rent for other comparable unassisted units, based on the location, quality, size, unit type, and age of the public housing unit and any amenities, housing services, maintenance, and utilities to be provided by the PHA in accordance with the lease.

(iii) All requests for exception flat rents under this paragraph (b)(3) must be submitted to HUD.

(4) For units where utilities are tenant-paid, the PHA must adjust the flat rent downward by the amount of a utility allowance for which the family might otherwise be eligible under 24 CFR part 965, subpart E.

(5) The PHA must revise, if necessary, the flat rent amount for a unit no later than 90 days after HUD issues new FMRs.

(6) If a new flat rent would cause a family's rent to increase by more than 35 percent, the family's rent increase must be phased in at 35 percent annually until such time that the family chooses to pay the income-based rent or the family is paying the flat rent established pursuant to this paragraph.

(c) *Income-based rent.* (1) An income-based rent is a tenant rent that is based on the family's income and the PHA's policies for determination of such rents.

(2) The PHA rent policies may specify that the PHA will use percentage of family income or some other reasonable system to determine income-based rents. The PHA rent policies may provide for depositing a portion of tenant rent in an escrow or savings account, for imposing a ceiling on tenant rents, for adoption of permissive income deductions (see § 5.611(b) of this title), or for another reasonable system to determining the amount of income-based tenant rent.

(3) The income-based tenant rent must not exceed the total tenant payment (§ 5.628 of this title) for the family minus any applicable utility allowance for tenant-paid utilities. If the utility allowance exceeds the total tenant payment, the PHA shall pay such excess amount (the utility reimbursement) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.

(4) The PHA may elect to establish policies regarding the frequency of utility reimbursement payments for payments made to the family.

(i) The PHA will have the option of making utility reimbursement payments not less than once per calendar-year quarter, for reimbursements totaling \$45 or less per quarter. In the event a family leaves the program in advance of its next quarterly reimbursement, the PHA must reimburse the family for a prorated share of the applicable reimbursement. PHAs exercising this option must have a hardship policy in place for tenants.

(ii) If the PHA elects to pay the utility supplier, the PHA must notify the family of the amount of utility reimbursement paid to the utility supplier.

(d) *Ceiling rent.* A PHA using ceiling rents authorized and established before

October 1, 1999, may continue to use ceiling rents, provided such ceiling rents are set at the level required for flat rents under this section. PHAs must follow the requirements for calculating and adjusting flat rents in paragraph (b) of this section when calculating and adjusting ceiling rents.

(e) *Information for families.* For the family to make an informed choice about its rent options, the PHA must provide sufficient information for an informed choice. Such information must include at least the following written information:

(1) The PHA's policies on switching type of rent in circumstances of financial hardship, and

(2) The dollar amounts of tenant rent for the family under each option, following the procedures in paragraph (f) of this section.

(f) *Choice between flat and income-based rents.* Families must be offered the choice between a flat rental amount and a previously calculated income-based rent according to the following:

(1) For a family that chooses the flat rent option, the PHA must conduct a reexamination of family income and composition at least once every three years, except for families a PHA determines exceed the over-income limit described in § 960.507(b). Once a PHA determines that a family has an income exceeding the over-income limit, the PHA must follow the income examination and notification requirements under § 960.507(c).

(2) At initial occupancy, or in any year in which a participating family is paying the income-based rent, the PHA must:

(i) Conduct a full examination of family income and composition, following the provisions in § 960.257;

(ii) Inform the family of the flat rental amount and the income-based rental amount determined by the examination of family income and composition;

(iii) Inform the family of the PHA's policies on switching rent types in circumstances of financial hardship; and

(iv) Apply the family's rent decision at the next lease renewal.

(3) In any year in which a family chooses the flat rent option but the

PHA chooses not to conduct a full examination of family income and composition for the annual rent option under the authority of paragraph (f)(1) of this section, the PHA must:

(i) Use income information from the examination of family income and composition from the first annual rent option;

(ii) Inform the family of the updated flat rental amount and the rental amount determined by the most recent examination of family income and composition;

(iii) Inform the family of the PHA's policies on switching rent types in circumstances of financial hardship; and

(iv) Apply the family's rent decision at the next lease renewal.

(g) *Switch from flat rent to income-based rent because of hardship.* (1) A family that is paying a flat rent may at any time request a switch to payment of income-based rent (before the next annual option to select the type of rent) if the family is unable to pay flat rent because of financial hardship. The PHA must adopt written policies for determining when payment of flat rent is a financial hardship for the family.

(2) If the PHA determines that the family is unable to pay the flat rent because of financial hardship, the PHA must immediately allow the requested switch to income-based rent. The PHA shall make the determination within a reasonable time after the family request.

(3) The PHA policies for determining when payment of flat rent is a financial hardship must provide that financial hardship include the following situations:

(i) The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;

(ii) The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items; and

(iii) Such other situations determined by the PHA to be appropriate.

[65 FR 16726, Mar. 29, 2000, as amended at 80 FR 53712, Sept. 8, 2015; 81 FR 12372, Mar. 8, 2016; 88 FR 9670, Feb. 14, 2023]

§ 960.255 Self-sufficiency incentives—Disallowance of increase in annual income.

(a) *Definitions.* The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person who is a member of a qualified family.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

(b) *Disallowance of earned income—(1) Initial 12-month exclusion.* During the 12-month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from the annual income (as defined in § 5.609 of this title) of a qualified family any increase in

the income of the family member as a result of employment over the baseline income of that family member.

(2) *Phase-in of rent increase.* Upon the expiration of the 12-month period defined in paragraph (b)(1) of this section and for the subsequent 12-month period, the PHA must exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under paragraph (b)(1) of this section and a maximum of 12 months for disallowance under paragraph (b)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (b)(1) of this section.

(4) Effect of changes on currently participating families. Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date.

(c) *Inapplicability to admission.* The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

(d) *Individual Savings Accounts.* As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The PHA must advise the family that the savings account option is available;

(2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA as a result of increased

income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

- (i) Purchasing a home;
- (ii) Paying education costs of family members;
- (iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The PHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;

(5) At least annually the PHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA.

[65 FR 16726, Mar. 29, 2000, as amended at 81 FR 12373, Mar. 8, 2016]

EFFECTIVE DATE NOTE: At 88 FR 9670, Feb. 14, 2023, § 960.255 was amended by adding paragraphs (e) and (f), effective Jan. 1, 2024. For the convenience of the user, the added text is set forth as follows:

§ 960.255 Self-sufficiency incentives—Disallowance of increase in annual income.

* * * * *

(e) *Limitation.* This section applies to a family that is:

(1) Receiving the disallowance of earned income under this section on December 31, 2023 or

(2) Eligible to receive the Jobs Plus program rent incentive pursuant to the Jobs Plus FY2023 notice of funding opportunity (NOFO) or earlier appropriations and distributed through prior Jobs Plus NOFOs.

(f) *Sunset.* This section will lapse on January 1, 2030.

§ 960.257 Family income and composition: Annual and interim reexaminations.

(a) *When PHA is required to conduct re-examination.* (1) For families who pay an income-based rent, the PHA must

conduct a reexamination of family income and composition at least annually and must make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

(2) For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every three years in accordance with the procedures in § 960.253(f).

(3) For all families who include non-exempt individuals, as defined in § 960.601, the PHA must determine compliance once each twelve months with community service and self-sufficiency requirements in subpart F of this part.

(4) The PHA may use the results of these reexaminations to require the family to move to an appropriate size unit.

(5) For all non-public housing over-income families, the PHA may not conduct an annual reexamination of family income.

(b) *Interim reexaminations.* (1) A family may request an interim reexamination of family income or composition because of any changes since the last determination.

(2) The PHA must make the interim reexamination within a reasonable time after the family request. The PHA must adopt policies prescribing when and under what conditions the family must report a change in family income or composition.

(c) *Streamlined income determination—* (1) *General.* A PHA may elect to apply a streamlined income determination to families receiving fixed income, as described in paragraph (c)(3) of this section.

(2) *Definition of “fixed income”.* For purposes of this section, “fixed income” means periodic payments at reasonably predictable levels from one or more of the following sources:

(i) Social Security, Supplemental Security Income, Supplemental Disability Insurance.

(ii) Federal, state, local, or private pension plans.

(iii) Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts.

(iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

(3) *Method of streamlined income determination.* A PHA using the streamlined income determination must adjust a family's income according to the percentage of a family's unadjusted income that is from fixed income.

(i) When 90 percent or more of a family's unadjusted income consists of fixed income, PHAs using streamlined income determinations must apply a COLA or COLAs to the family's sources of fixed income, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. For non-fixed income, the PHA is not required to make adjustments pursuant to paragraph (a) of this section.

(ii) When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs using streamlined income determinations must apply a COLA to each of the family's sources of fixed income individually. The PHA must determine all other income pursuant to paragraph (a) of this section.

(4) *COLA rate applied by PHAs.* PHAs using streamlined income determinations must adjust a family's fixed income using a COLA or current interest rate that applies to each specific source of fixed income and is available from a public source or through tenant-provided, third-party-generated documentation. If no public verification or tenant-provided documentation is available, then the owner must obtain third-party verification of the income amounts in order to calculate the change in income for the source.

(5) *Triennial verification.* For any income determined pursuant to a streamlined income determination, a PHA must obtain third-party verification of all income amounts every 3 years.

(d) *PHA reexamination policies.* The PHA must adopt admission and continued occupancy policies concerning conduct of annual and interim reexaminations in accordance with this section, and shall conduct reexaminations in accordance with such policies. The

PHA reexamination policies must be in accordance with the PHA plan.

[65 FR 16726, Mar. 29, 2000, as amended at 81 FR 12373, Mar. 8, 2016; 82 FR 58340, Dec. 12, 2017; 85 FR 27139, May 7, 2020; 88 FR 9670, Feb. 14, 2023]

EFFECTIVE DATE NOTE: At 88 FR 9670, Feb. 14, 2023, § 960.257 was amended by revising paragraph (b) and adding paragraphs (e) and (f), effective Jan. 1, 2024. For the convenience of the user, the added and revised text is set forth as follows:

§ 960.257 Family income and composition: Annual and interim reexaminations.

* * * * *

(b) *Interim reexaminations.* (1) A family may request an interim reexamination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of an increase in family adjusted income under paragraph (3) of this section. What qualifies as a “reasonable time” may vary based on the amount of time it takes to verify information, but generally should not be longer than 30 days after changes in income are reported.

(2) The PHA may decline to conduct an interim reexamination of family income if the PHA estimates the family’s adjusted income will decrease by an amount that is less than ten percent of the family’s annual adjusted income (or a lower amount established by HUD by notice), or a lower threshold established by the PHA.

(3) The PHA must conduct an interim reexamination of family income when the PHA becomes aware that the family’s adjusted income (as defined in § 5.611 of this title) has changed by an amount that the PHA estimates will result in an increase of ten percent or more in annual adjusted income or such other amount established by HUD through notice, except:

(i) The PHA may not consider any increase in the earned income of the family when estimating or calculating whether the family’s adjusted income has increased, except that, based on the PHA’s established written policy, the PHA may consider increases in earned income if the PHA has processed an interim reexamination for a decrease in the family’s income under paragraph (b)(1) of this section within the same annual or biennial reexamination cycle; and

(ii) The PHA may choose not to conduct an interim reexamination in the last three months of a family’s certification period, in accordance with the PHA’s established written policy.

(4) For over-income families in the period of up to six months before their tenancy termination pursuant to § 960.507(d)(2), the PHA must conduct an interim reexamination of family income as otherwise required under this paragraph. However, the resulting income determination will not make the family eligible to remain in the public housing program beyond the period before termination as defined by PHA policy.

(5) The PHA must adopt policies consistent with this section prescribing when and under what conditions the family must report a change in family income or composition.

(6) *Effective date of rent changes.* (i) If the family has reported a change in family income or composition in a timely manner according to the PHA’s policies, the PHA must provide the family with 30 days advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period. Rent decreases will be effective on the first day of the first month after the date of the actual change leading to the interim reexamination of family income.

(ii) If the family has failed to report a change in family income or composition in a timely manner according to the PHA’s policies, PHAs must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income. Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. However, a PHA may apply rent decreases retroactively at the discretion of the PHA, in accordance with the conditions established by the PHA in written policy and subject to paragraph (b)(6)(iii) of this section.

(iii) A retroactive rent decrease may not be applied by the PHA prior to the later of the first of the month following:

(A) The date of the change leading to the interim reexamination of family income; or

(B) The effective date of the family’s most recent previous interim or annual reexamination (or initial examination if that was the family’s last examination).

* * * * *

(e) Reviews of family income under this section are subject to the provisions in section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended (42 U.S.C. 3544).

(f) *De minimis errors.* The PHA will not be considered out of compliance with the requirements in this section solely due to de minimis errors in calculating family income but is still obligated to correct errors once the PHA becomes aware of the errors. A de minimis error is an error where the PHA determination of family income varies from

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the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income).

(i) The PHA must take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent as a result of an error (including a de minimis error) in the income determination. Families will not be required to repay the PHA in instances where the PHA has miscalculated income resulting in a family being undercharged for rent or family share.

(ii) HUD may revise the amount of de minimis error in this paragraph (f) through a rulemaking published in the FEDERAL REGISTER for public comment.

§ 960.259 Family information and verification.

(a) *Family obligation to supply information.* (1) The family must supply any information that the PHA or HUD determines is necessary in administration of the public housing program, including submission of required evidence of citizenship or eligible immigration status (as provided by part 5, subpart E of this title). “Information” includes any requested certification, release or other documentation.

(2) The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements.

(3) For requirements concerning the following, see part 5, subpart B of this title:

(i) Family verification and disclosure of social security numbers;

(ii) Family execution and submission of consent forms for obtaining wage and claim information from State Wage Information Collection Agencies (SWICAs).

(4) Any information supplied by the family must be true and complete.

(b) *Family release and consent.* (1) As a condition of admission to or continued assistance under the program, the PHA shall require the family head, and such other family members as the PHA designates, to execute a consent form (including any release and consent as required under § 5.230 of this title) authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to the PHA or HUD such information as

the PHA or HUD determines to be necessary.

(2) The use or disclosure of information obtained from a family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of the program.

(c) *PHA responsibility for reexamination and verification.* (1) Except as provided in paragraph (c)(2) of this section, the PHA must obtain and document in the family file third-party verification of the following factors, or must document in the file why third-party verification was not available:

(i) Reported family annual income;

(ii) The value of assets;

(iii) Expenses related to deductions from annual income; and

(iv) Other factors that affect the determination of adjusted income or income-based rent.

(2) For a family with net assets equal to or less than \$5,000, a PHA may accept, for purposes of recertification of income, a family’s declaration that it has net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration.

(i) The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family’s income.

(ii) A PHA must obtain third-party verification of all family assets every 3 years.

[65 FR 16726, Mar. 29, 2000, as amended at 81 FR 12373, Mar. 8, 2016]

EFFECTIVE DATE NOTE: At 88 FR 9671, Feb. 14, 2023, § 960.259 was amended by revising paragraph (c)(2), effective Jan. 1, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 960.259 Family information and verification.

* * * * *

(c) * * *

(2) For a family with net family assets (as the term is defined in § 5.603 of this title) equal to or less than \$50,000, which amount will be adjusted annually by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, a PHA may accept, for purposes of recertification of income, a family’s declaration

under § 5.618(b) of this title, except that the PHA must obtain third-party verification of all family assets every 3 years.

* * * * *

Subpart D—Preference for Elderly Families and Disabled Families in Mixed Population Projects

SOURCE: 59 FR 17667, Apr. 13, 1994, unless otherwise noted.

§ 960.401 Purpose.

This subpart establishes a preference for elderly families and disabled families for admission to mixed population public housing projects, as defined in § 960.405.

§ 960.403 Applicability.

(a) This subpart applies to all dwelling units in mixed population projects (as defined in § 960.405), or portions of mixed population projects, assisted under the U.S. Housing Act of 1937. These projects formerly were known as elderly projects.

(b) This subpart does not apply to section 23 and section 10(c) leased housing projects or the section 23 Housing Assistance Payments Program where the owners enter into leases directly with the tenants, or to the Section 8 Housing Assistance Payments Program, the Low-Rent Housing Homeownership Opportunities Program (Turnkey III), the Mutual Help Homeownership Opportunities Program, or to Indian Housing Authorities. (For applicability to Indian Housing Authorities, see part 905 of this chapter.) Additionally, this subpart is not applicable to projects designated for elderly families or designated for disabled families in accordance with 24 CFR part 945.

§ 960.407 Selection preference for mixed population developments.

(a) The PHA must give preference to elderly families and disabled families equally in determining priority for admission to mixed population developments. The PHA may not establish a limit on the number of elderly families or disabled families who may be ac-

cepted for occupancy in a mixed population development.

(b) In selecting elderly families and disabled families to occupy units in mixed population developments, the PHA must first offer units that have special accessibility features for persons with disabilities to families who include persons with disabilities who require the accessibility features of such units (see §§ 8.27 and 100.202 of this title).

[65 FR 16729, Mar. 29, 2000]

Subpart E—Occupancy by Over-Income Families or Police Officers

SOURCE: 65 FR 16729, Mar. 29, 2000, unless otherwise noted.

§ 960.503 Occupancy by over-income families.

A PHA that owns or operates fewer than two hundred fifty (250) public housing units, may lease a unit in a public housing development to an over-income family (a family whose annual income exceeds the limit for a low income family at the time of initial occupancy), in accordance with its PHA annual plan (or supporting documents), if all the following conditions are satisfied:

(a) There are no eligible low income families on the PHA waiting list or applying for public housing assistance when the unit is leased to an over-income family;

(b) The PHA has publicized availability of the unit for rental to eligible low income families, including publishing public notice of such availability in a newspaper of general circulation in the jurisdiction at least thirty days before offering the unit to an over-income family;

(c) The over-income family rents the unit on a month-to-month basis for a rent that is not less than the PHA's cost to operate the unit;

(d) The lease to the over-income family provides that the family agrees to vacate the unit when needed for rental to an eligible family; and

(e) The PHA gives the over-income family at least thirty days notice to vacate the unit when the unit is needed for rental to an eligible family.

§ 960.505 Occupancy by police officers to provide security for public housing residents.

(a) *Police officer.* For purpose of this subpart E, “police officer” means a person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

(b) *Occupancy in public housing.* For the purpose of increasing security for residents of a public housing development, the PHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. The PHA must include in the PHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

§ 960.507 Families exceeding the income limit.

(a) *In general.* Families participating in the public housing program must not have incomes that exceed the over-income limit, as determined by paragraph (b) of this section, for more than 24 consecutive months.

(1) This provision applies to all families in the public housing program, including FSS families and all families receiving EID.

(i) Mixed families (as defined in § 5.504 of this title) who are non-public housing over-income families pay the alternative non-public housing rent (as defined in § 960.102), as applicable.

(ii) All non-public housing over-income families are precluded from participating in a public housing resident council.

(iii) Furthermore, non-public housing over-income families cannot participate in programs that are only for public housing or low-income families.

(iv) PHAs cannot provide any Federal assistance, including a utility allowance, to non-public housing over-income families.

(2) PHAs must implement the requirements of this section by amending all applicable admission and continued occupancy policies according to the provisions in 24 CFR part 903. All PHAs must have effective over-income policies, consistent with the requirements of this section, no later than June 14, 2023.

(b) *Determination of over-income limit.* The over-income limit is determined by multiplying the applicable income limit for a very low-income family as defined in § 5.603(b) of this title, by a factor of 2.4.

(c) *Notifying over-income families.* (1) If the PHA determines the family has exceeded the over-income limit pursuant to an income examination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families in accordance with paragraph (d) of this section. Pursuant to 24 CFR part 966, subpart B, the PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA’s determination that the family has exceeded the over-income limit.

(2) The PHA must conduct an income examination 12 months after the initial over-income determination described in paragraph (c)(1) of this section, unless the PHA determined the family’s income fell below the over-income limit since the initial over-income determination. If the PHA determines the family has exceeded the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination that led to the 12-month over-income determination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the PHA following its continued

occupancy policy for over-income families in accordance with paragraph (d) of this section. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. Pursuant to 24 CFR part 966, subpart B, the PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.

(3) The PHA must conduct an income examination 24 months after the initial over-income determination described in paragraph (c)(1) of this section, unless the PHA determined the family's income fell below the over-income limit since the second over-income determination. If the PHA determines the family has exceeded the over-income limit for 24 consecutive months, then the PHA must provide written notification of this 24-month over-income determination no later than 30 days after the income examination that led to the 24-month over-income determination. The notice must state:

(i) That the family has exceeded the over-income limit for 24 consecutive months.

(ii) That the PHA must either terminate the family's tenancy or charge the family the alternative non-public housing rent, in accordance with its continued occupancy policy for over-income families in accordance with paragraph (d) of this section.

(A) If the PHA determines that under its policy the family's tenancy must be terminated in accordance with paragraph (d)(2) of this section, then the notice must inform the family of this determination and state the period of time before tenancy termination.

(B) If the PHA determines that under its policy the family must be charged the alternative non-public housing rent in accordance with paragraph (d)(1) of this section, then the notice must inform the family of this determination and state that the family be charged the alternative non-public housing rent in accordance with paragraph (d)(1) of this section. The PHA must also present the family with a new lease, in accordance with the requirements at § 960.509, and inform the family that the

lease must be executed no later than 60 days of the date of the notice or at the next lease renewal, whichever is sooner.

(iii) Pursuant to 24 CFR part 966, subpart B, the PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.

(4) If, at any time during the consecutive 24-month period following the initial over-income determination described in paragraph (c)(1) of this section, a PHA determines that the family's income is below the over-income limit, the family is entitled to a new 24 consecutive month period of being over-income and new notices under paragraphs (c)(1), (c)(2), and (c)(3) of this section if the PHA later determines that the family income exceeds the over-income limit.

(d) *End of the 24 consecutive month grace period.* Once a family has exceeded the over-income limit for 24 consecutive months, the PHA must, as detailed in its admissions and continued occupancy policies—

(1) Require the family to execute a new lease consistent with § 960.509 and charge the family the alternative non-public housing rent, as defined in § 960.102, no later than 60-days after the notice is provided pursuant to paragraph (c)(3) of this section or at the next lease renewal, whichever is sooner; or

(2) Terminate the tenancy of the family no more than 6 months after the notification under paragraph (c)(3) of this section as determined by the PHA's continued occupancy policy. PHAs must continue to charge these families the family's choice of income-based, flat rent, or prorated rent for mixed families during the period before termination. The PHA must give appropriate notice of lease tenancy termination (notice to vacate) in accordance with State and local laws.

(e) *Status of families.* An over-income family will continue to be a public housing program participant until their tenancy is terminated by the PHA in accordance with paragraph (d)(2) of this section or the family executes a new non-public housing lease in

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accordance with paragraph (d)(1) of this section.

(f) *Reporting.* Each PHA must submit a report annually to HUD that specifies, as of the end of the year, the number of families residing in public housing with incomes exceeding the over-income limit and the number of families on the waiting lists for admission to public housing projects and provide any other information regarding over-income families requested by HUD. These reports must also be publicly available.

[88 FR 9671, Feb. 14, 2023]

§ 960.509 Lease requirements for non-public housing over-income families.

(a) *In general.* If a family, when permitted by written PHA's continued occupancy policy, elects to remain in a public housing unit paying the alternative non-public housing rent, the PHA and each non-public housing over-income (NPHOI) family (referred to as the "tenant" in this section) must enter into a lease. The tenant and the PHA must execute the lease, as presented by the PHA pursuant to § 960.507(c)(3)(ii)(B) no later than 60 days after the notice provided pursuant to § 960.507(c)(3) or at the next lease renewal, whichever is sooner. If the tenant does not execute the lease within this time period, the PHA must terminate the tenancy of the tenant no more than 6 months after the notification under § 960.507(c)(3) in accordance with § 960.507(d)(2). Notwithstanding, a PHA may permit, in accordance with its policies, an over-income family to execute the lease beyond this time period, but before termination of the tenancy, if the over-income family pays the PHA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the lease.

(b) *Lease provisions.* The non-public housing over-income lease must contain at a minimum the following provisions.

(1) *Parties, dwelling unit, and term.* The lease must state:

(i) The name of the PHA and names of the tenants.

(ii) The unit rented (address, apartment number, and any other information needed to identify the dwelling unit).

(iii) The term of the lease (lease term and renewal in accordance with paragraph (b)(2) of this section).

(iv) A statement of the utilities, services, and equipment to be supplied by the PHA without additional cost, and the utilities and appliances to be paid for by the tenant.

(v) The composition of the household as approved by the PHA (family members, foster children and adults, and any PHA-approved live-in aides). The family must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

(2) *Lease term and renewal.* (i) The lease must have a term as determined by the PHA and included in PHA policy.

(ii) At any time, the PHA may terminate the tenancy in accordance with paragraph (b)(11) of this section.

(3) *Payments due under the lease.* (i) *Tenant rent.* (A) The tenant must pay the amount of the monthly tenant rent determined by the PHA in accordance with § 960.507(e)(1).

(B) The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term. The PHA must comply with State or local law in giving the tenant written notice stating any change in the amount of tenant rent.

(ii) *PHA charges.* The lease must provide for charges to the tenant for repair beyond normal wear and tear and for consumption of excess utilities. The lease must state the basis for the determination of such charges (*e.g.*, by a posted schedule of charges for repair, amounts charged for excess utility consumption, etc.). The imposition of charges for consumption of excess utilities is permissible only if such charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances.

(iii) *Late payment penalties.* The lease may provide for penalties for late payment of rent.

(iv) *When charges are due.* The lease must provide that charges assessed under paragraphs (b)(3)(ii) and (b)(3)(iii) of this section are due in accordance with PHA policy.

(v) *Security deposits.* The lease must provide that any previously paid security deposit will be applied to the tenancy upon signing a new lease. The lease must also inform the tenant of the circumstances under which a security deposit will be returned to the tenant or when the tenant will be charged for damage to the unit, consistent with State and local security deposit laws.

(4) *Tenant's right to use and occupancy.* The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, as well as their guests. The term *guest* is defined in § 5.100 of this title.

(5) *The PHA's obligations.* The PHA's obligations under the lease must include the following:

(i) To maintain the dwelling unit and the project in decent, safe, and sanitary condition.

(ii) To comply with requirements of applicable State and local building codes, housing codes, and HUD regulations materially affecting health and safety.

(iii) To make necessary repairs to the dwelling unit.

(iv) To keep project buildings, facilities, and common areas, not otherwise assigned to the tenant for maintenance and upkeep, in a clean and safe condition.

(v) To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities, and appliances, including elevators, supplied, or required to be supplied by the PHA.

(vi) To provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of an individual tenant family) for the deposit of ashes, garbage, rubbish, and other waste removed from the dwelling unit by the tenant in accordance with paragraph (b)(6)(vii) of this section.

(vii) To supply running water, including an adequate source of potable water, and reasonable amounts of hot

water and reasonable amounts of heat at appropriate times of the year (according to local custom and usage), except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct utility connection.

(viii) To notify the tenant of the specific grounds for any proposed adverse action by the PHA as required by State and local law.

(ix) To comply with Federal, State, and local nondiscrimination and fair housing requirements, including Federal accessibility requirements and providing reasonable accommodations for persons with disabilities.

(x) To establish necessary and reasonable policies for the benefit and well-being of the housing project and the tenants, post the policies in the project office, and incorporate the regulations by reference in the lease.

(6) *Tenant's obligations.* The lease must, at a minimum and consistent with State and local law, provide that the tenant must:

(i) Not assign the lease or sublease the dwelling unit.

(ii) Not provide accommodations for boarders or lodgers.

(iii) Use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not use or permit its use for any other purpose.

(iv) Abide by necessary and reasonable policies established by the PHA for the benefit and well-being of the housing project and the tenants, which must be posted in the project office and incorporated by reference in the lease.

(v) Comply with all applicable State and local building and housing codes materially affecting health and safety.

(vi) Keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition.

(vii) Dispose of all waste from the dwelling unit in a sanitary and safe manner.

(viii) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities, including elevators.

(ix) Refrain from, and cause members of the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or housing project.

(x) Pay reasonable charges (other than for wear and tear) for the repair of damages to the dwelling unit, or to the housing project (including damages to buildings, facilities, or common areas) caused by the tenant, a member of the household or a guest.

(xi) Act, and cause household members and guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe, and sanitary condition.

(xii) Assure that no tenant, member of the tenant's household, guest, or any other person under the tenant's control engages in:

(A) *Criminal activity.* (1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

(2) Any drug-related criminal activity on or off the premises; or

(B) *Civil activity.* For non-public housing over-income units that are not within mixed-finance projects, any smoking of prohibited tobacco products in the tenant's unit as well as restricted areas, as defined by §965.653(a) of this chapter, or in other outdoor areas that the PHA has designated as smoke-free.

(xiii) To assure that no member of the household engages in an abuse or pattern of abuse of alcohol that affects the health, safety, or right to peaceful enjoyment of the premises by other residents.

(7) *Tenant maintenance.* The lease may provide that the tenant must perform seasonal maintenance or other maintenance tasks, where performance of such tasks by tenants of dwellings units of a similar design and construction is customary, as long as such provisions are not for the purpose of evading the obligations of the PHA. In cases where a PHA adopts such lease provisions, the PHA must exempt tenants who are unable to perform such tasks because of age or disability.

(8) *Defects hazardous to life, health, or safety.* The lease must set forth the

rights and obligations of the tenant and the PHA if to the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants. The lease must provide that:

(i) The tenant must immediately notify project management of the damage.

(ii) The PHA must repair the unit within a reasonable time. The PHA must charge the tenant the reasonable cost of the repairs if the damage was caused by the tenant, the tenant's household, or the tenant's guests.

(iii) The PHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time, subject to paragraph (b)(5)(ix) of this section; and

(iv) The lease must allow for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling if repairs are not made in accordance with paragraph (b)(8)(ii) of this section or alternative accommodations not provided in accordance with paragraph (b)(8)(iii) of this section, except that no abatement of rent may occur if the tenant rejects the alternative accommodation or if the damage was caused by the tenant, tenant's household or guests.

(9) *Entry of dwelling unit during tenancy.* The lease must set forth the circumstances under which the PHA may enter the dwelling unit during the tenant's possession and must include the following requirements:

(i) The PHA is, upon reasonable advance notification to the tenant, permitted to enter the dwelling unit during reasonable hours for the purpose of performing routine inspections and maintenance, for making improvement or repairs, or to show the dwelling unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is reasonable advance notification.

(ii) The PHA may enter the dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists; and

(iii) If the tenant and all adult members of the household are absent from

the dwelling unit at the time of entry, the PHA must leave in the dwelling unit a written statement specifying the date, time, and purpose of entry prior to leaving the dwelling unit.

(10) *Notice procedures.* The lease must provide procedures, in accordance with State and local laws, the PHA and tenant must follow when giving notices, which must include:

(i) Except as provided in paragraph (b)(9) of this section, notice to a tenant must be provided in a form to allow meaningful access for persons who are limited English proficient and, in a form, to ensure effective communication with individuals with disabilities; and

(ii) Notice to the PHA can be in writing, hand delivered, or sent by prepaid first-class mail to PHA address provided in the lease, orally, or submitted electronically through a communications system established by the PHA for that purpose.

(11) *Termination of tenancy and eviction.* (i) *Procedures.* The lease must state the procedures to be followed by the PHA and the tenant to terminate the tenancy.

(ii) *Grounds for termination of tenancy.* The PHA must terminate the tenancy for good cause, which includes, but is not limited to, the following:

(A) Criminal activity or alcohol abuse as provided in paragraph (b)(11)(iv) of this section.

(B) Failure to accept the PHA's offer of a lease revision to an existing lease; with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect; and with the offer specifying a reasonable time limit within that period for acceptance by the family.

(iii) *Lease termination notice.* The PHA must give notice of lease termination in accordance with State and local laws.

(iv) *PHA termination of tenancy for criminal activity or alcohol abuse.* (A) *Evicting drug criminals.* (1) *Methamphetamine conviction.* The PHA must immediately terminate the tenancy if the PHA determines that any member of the household has been convicted of drug-related criminal activity for manufacture or production of methamphetamine

on the premises of Federally assisted housing.

(2) *Drug crime on or off the premises.* The lease must provide that drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control, is grounds for the PHA to terminate tenancy. In addition, the lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or when the PHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(B) *Evicting other criminals.* (1) *Threat to other residents.* The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

(2) *Fugitive felon or parole violator.* The PHA may terminate the tenancy if a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under Federal or State law.

(C) *Eviction for criminal activity.* (1) *Evidence.* The PHA may evict the tenant by judicial action for criminal activity in accordance with this section if the PHA determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

(2) *Notice to Post Office.* When a PHA evicts an individual or family for criminal activity, the PHA must notify

the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

(D) *Use of criminal record.* If the PHA seeks to terminate the tenancy for criminal activity as shown by a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record before a PHA grievance hearing, as applicable, or court trial concerning the termination of tenancy or eviction. The tenant must be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial.

(E) *Cost of obtaining criminal record.* The PHA may not pass along to the tenant the costs of a criminal records check.

(F) *Evicting alcohol abusers.* The PHA must establish standards that allow termination of tenancy if the PHA determines that a household member has:

(1) Engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or

(2) Furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

(G) *PHA action, generally.* (1) *Consideration of circumstances.* In a manner consistent with policies, procedures and practices, the PHA may consider all circumstances relevant to a particular case such as the nature and severity of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity, the extent to which the leaseholder has taken steps to prevent or mitigate the offending action, the amount of time that has passed since the criminal conduct occurred, whether the crime or conviction was related to a disability, and whether the individual has engaged in rehabilitative or community services.

(2) *Exclusion of culpable household member.* The PHA may require a tenant to exclude a household member to continue to reside in the dwelling unit,

where that household member has participated in or been culpable for action or failure to act that warrants termination.

(3) *Consideration of rehabilitation.* In determining whether to terminate tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. 13662). For this purpose, the PHA may require the tenant 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.

(4) *Nondiscrimination limitation.* The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of § 5.105 of this title.

(12) *No automatic lease renewal.* Upon expiration of the lease term, the lease shall not automatically renew.

(13) *Grievance procedures.* The lease may include hearing or grievance procedures and may explain when the procedures are available to the family.

(14) *Provision for modifications.* The lease may be modified at any time by written agreement of the tenant and the PHA. The lease must provide that modification of the lease must be evidenced by a written rider or amendment to the lease, executed by both parties, except as permitted under § 966.5 of this chapter, which allows modifications of the lease by posting of policies, rules and regulations.

(15) *Signature clause.* The lease must provide a signature clause attesting that the lease has been executed by the parties.

[88 FR 9671, Feb. 14, 2023; 88 FR 12560, Feb. 28, 2023]

Subpart F—When Resident Must Perform Community Service Activities or Self-Sufficiency Work Activities

SOURCE: 65 FR 16729, Mar. 29, 2000, unless otherwise noted.

§ 960.600 Implementation.

PHAs and residents must comply with the requirements of this subpart beginning with PHA fiscal years that commence on or after October 1, 2000. Unless otherwise provided by § 903.11 of this chapter, Annual Plans submitted for those fiscal years are required to contain information regarding the PHA's compliance with the community service requirement, as described in § 903.7 of this chapter. Non-public housing over-income families are not required to comply with the requirements of this subpart.

[88 FR 9675, Feb. 14, 2023]

§ 960.601 Definitions.

(a) *Definitions found elsewhere*—(1) *General definitions.* The following terms are defined in part 5, subpart A of this title: *public housing, public housing agency* (PHA).

(2) *Definitions concerning income and rent.* The following terms are defined in part 5, subpart F of this title: *economic self-sufficiency program, work activities.*

(b) *Other definitions.* In addition to the definitions in paragraph (a) of this section, the following definitions apply:

Community service. The performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Exempt individual. An adult who:

(1) Is 62 years or older;

(2)(i) Is a blind or disabled individual, as defined under Section 216(i)(1) or Section 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or

(ii) Is a primary caretaker of such individual;

(3) Is engaged in work activities;

(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program;

(5) Is a member of a family receiving assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such a program; or

(6) is a member of a non-public housing over-income family.

Service requirement. The obligation of each adult resident, other than an exempt individual, to perform community service or participate in an economic-self sufficiency program required in accordance with § 960.603.

[65 FR 16729, Mar. 29, 2000, as amended at 88 FR 9675, Feb. 14, 2023]

§ 960.603 General requirements.

(a) *Service requirement.* Except for any family member who is an exempt individual, each adult resident of public housing must:

(1) Contribute 8 hours per month of community service (not including political activities); or

(2) Participate in an economic self-sufficiency program for 8 hours per month; or

(3) Perform 8 hours per month of combined activities as described in paragraphs (a)(1) and (a)(2) of this section.

(b) *Family violation of service requirement.* The lease shall specify that it shall be renewed automatically for all purposes, unless the family fails to comply with the service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve

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month lease term (see § 966.4(1)(2)(i) of this chapter).

§ 960.605 How PHA administers service requirements.

(a) *PHA policy.* Each PHA must develop a local policy for administration of the community service and economic self-sufficiency requirements for public housing residents.

(b) *Administration of qualifying community service or self-sufficiency activities for residents.* The PHA may administer qualifying community service or economic self-sufficiency activities directly, or may make such activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions.

(c) *PHA responsibilities.* (1) The PHA policy must describe how the PHA determines which family members are subject to or exempt from the service requirement, and the process for determining any changes to exempt or non-exempt status of family members.

(2) The PHA must give the family a written description of the service requirement, and of the process for claiming status as an exempt person and for PHA verification of such status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt persons. The PHA must also notify the family that it will be validating a sample of self-certifications of completion of the service requirement accepted by the PHA under § 960.607(a)(1)(ii).

(3) The PHA must review family compliance with service requirements and must verify such compliance annually at least 30 days before the end of the 12-month lease term. If qualifying activities are administered by an organization other than the PHA, the PHA may obtain verification of family compliance from such third parties or may accept a signed certification from the family member that he or she has performed such qualifying activities.

(4) The PHA must retain reasonable documentation of service requirement performance or exemption in a participant family's files.

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(5) The PHA must comply with non-discrimination and equal opportunity requirements listed at § 5.105(a) of this title and affirmatively further fair housing in all their activities in accordance with the AFFH Certification as described in § 903.7(o) of this chapter.

[65 FR 16729, Mar. 29, 2000, as amended at 81 FR 12373, Mar. 8, 2016]

§ 960.607 Assuring resident compliance.

(a) *Acceptable documentation demonstrating compliance.* (1) If qualifying activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide one of the following:

(i) A signed certification to the PHA by such other organization that the family member has performed such qualifying activities; or

(ii) A signed self-certification to the PHA by the family member that he or she has performed such qualifying activities.

(2) The signed self-certification must include the following:

(i) A statement that the tenant contributed at least 8 hours per month of community service not including political activities within the community in which the adult resides; or participated in an economic self-sufficiency program (as that term is defined in 24 CFR 5.603(b)) for at least 8 hours per month;

(ii) The name, address, and a contact person at the community service provider; or the name, address, and contact person for the economic self-sufficiency program;

(iii) The date(s) during which the tenant completed the community service activity, or participated in the economic self-sufficiency program;

(iv) A description of the activity completed; and

(v) A certification that the tenant's statement is true.

(3) If a PHA accepts self-certifications under paragraph (a)(1)(ii) of this section, the PHA must validate a sample of such self-certifications using third-party certification described in paragraph (a)(1)(i) of this section.

(b) *PHA notice of noncompliance.* (1) If the PHA determines that there is a

family member who is required to fulfill a service requirement, but who has violated this family obligation (non-compliant resident), the PHA must notify the tenant of this determination.

(2) The PHA notice to the tenant must:

(i) Briefly describe the noncompliance;

(ii) State that the PHA will not renew the lease at the end of the twelve month lease term unless:

(A) The tenant, and any other non-compliant resident, enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance, and in fact cure such noncompliance in accordance with such agreement; or

(B) The family provides written assurance satisfactory to the PHA that the tenant or other noncompliant resident no longer resides in the unit.

(iii) State that the tenant may request a grievance hearing on the PHA determination, in accordance with part 966, subpart B of this chapter, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of such determination.

(c) *Tenant agreement to comply with service requirement.* If the tenant or another family member has violated the service requirement, the PHA may not renew the lease upon expiration of the term unless:

(1) The tenant, and any other non-compliant resident, enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance by completing the additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over the twelve-month term of the new lease, and

(2) All other members of the family who are subject to the service requirement are currently complying with the service requirement or are no longer residing in the unit.

[65 FR 16729, Mar. 29, 2000, as amended at 81 FR 12374, Mar. 8, 2016]

§ 960.609 Prohibition against replacement of PHA employees.

In implementing the service requirement under this subpart, the PHA may not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement.

Subpart G—Pet Ownership in Public Housing

SOURCE: 65 FR 42522, July 10, 2000, unless otherwise noted.

§ 960.701 Purpose.

The purpose of this subpart is, in accordance with section 31 of the United States Housing Act of 1937 (42 U.S.C. 1437z-3), to permit pet ownership by residents of public housing, subject to compliance with reasonable requirements established by the public housing agency (PHA) for pet ownership.

§ 960.703 Applicability.

This subpart applies to public housing as that term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), except that such term does not include public housing developments for the elderly or persons with disabilities. Regulations that apply to pet ownership in such developments are located in part 5, subpart C, of this title.

§ 960.705 Animals that assist, support, or provide service to persons with disabilities.

(a) This subpart G does not apply to animals that assist, support or provide service to persons with disabilities. PHAs may not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support or provide service to persons with disabilities. This exclusion applies to such animals that reside in public housing, as that term is used in § 960.703, and such animals that visit these developments.

(b) Nothing in this subpart G:

§ 960.707

(1) Limits or impairs the rights of persons with disabilities;

(2) Authorizes PHAs to limit or impair the rights of persons with disabilities; or

(3) Affects any authority that PHAs may have to regulate service animals that assist, support or provide service to persons with disabilities, under Federal, State, or local law.

§ 960.707 Pet ownership.

(a) *Ownership Conditions.* A resident of a dwelling unit in public housing, as that term is used in § 960.703, may own one or more common household pets or have one or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the PHA, if the resident maintains each pet:

(1) Responsibly;

(2) In accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations; and

(3) In accordance with the policies established in the PHA Annual Plan for the agency as provided in part 903 of this chapter.

(b) *Reasonable requirements.* Reasonable requirements may include but are not limited to:

(1) Requiring payment of a non-refundable nominal fee to cover the reasonable operating costs to the development relating to the presence of pets, a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered, or both;

(2) Limitations on the number of animals in a unit, based on unit size;

(3) Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable State and local law, and prohibitions on individual animals, based on certain factors, including the size and weight of animals;

(4) Restrictions or prohibitions based on size and type of building or project, or other relevant conditions;

(5) Registration of the pet with the PHA; and

(6) Requiring pet owners to have their pets spayed or neutered.

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(c) *Restriction.* A PHA may not require pet owners to have any pet's vocal chords removed.

(d) *Pet deposit.* A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits or, if State or local law has no requirements regarding pet deposits, for rental security deposits, if applicable. The PHA shall comply with such applicable law as to retention of the deposit, interest, and return of the deposit or portion thereof to the resident, and any other applicable requirements.

(e) *PHA Plan.* Unless otherwise provided by § 903.11 of this chapter, Annual Plans are required to contain information regarding the PHA's pet policies, as described in § 903.7(n) of this chapter, beginning with PHA fiscal years that commence on or after January 1, 2001.

PART 963—PUBLIC HOUSING— CONTRACTING WITH RESIDENT- OWNED BUSINESSES

Subpart A—General

Sec.

963.1 Purpose.

963.3 Applicability.

963.5 Definitions.

Subpart B—Contracting with Resident- Owned Businesses

963.10 Eligible resident-owned businesses.

963.12 Alternative procurement process.

AUTHORITY: 42 U.S.C. 1437 and 3535(d).

SOURCE: 57 FR 20189, May 11, 1992, unless otherwise noted.

Subpart A—General

§ 963.1 Purpose.

The purpose of this part is to enhance the economic opportunities of public housing residents by providing public housing agencies with a method of soliciting and contracting with eligible and qualified resident-owned businesses (as defined in this part) for public housing services, supplies, or construction. The contract award method provided by this part is based on the established procurement procedures set forth in 24 CFR 85.36 (as revised April 1,