Arizona Department of Housing
Arizona Public Housing Authority

Housing Choice Voucher Program Administrative Plan

The Housing Choice Voucher Program is primarily governed by the U. S. Code of Federal Regulations (CFR) and the U. S. Department of Housing and Urban Development (HUD). State law also directs Public Housing Authority (PHA) Policy. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA Policy. The APHA stays abreast and adheres to PHA requirements and guidelines as outlined in various mediums. Requirements are not repeated in this Administrative Plan for the most part. This plan provides guidance in areas where the Arizona Public Housing Authority (APHA) has the discretion to determine its own policy.

Arizona Department of Housing

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GLOSSARY GL-1

Chapter 1

FAIR HOUSING AND REASONABLE ACCOMMODATION

1.1 DISCRIMINATION COMPLAINTS

If an applicant or participant believes that the APHA or an owner/agent has discriminated against any family member, the family should advise the APHA.

APHA Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the APHA either orally or in writing. The APHA will attempt to remedy discrimination complaints made against the APHA.

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

1.2 REASONABLE ACCOMMODATION

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

APHA Policy

The APHA will ask applicants and participants if they request any type of accommodation on the Application for Housing Assistance. Termination notices will include contact information if a reasonable accommodation is needed as part of the appeal process.

A person with a disability may request reasonable accommodations in order to have equal access to the HCVP. The types of reasonable accommodations the APHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

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

1.2.1 Request for an Accommodation

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the APHA treat the information as a request for a reasonable accommodation, even if no formal request is made.

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

If the need for the accommodation is not readily apparent or known to the APHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

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

1.2.2 Disability Verification

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability that is used for waiting list preferences and income allowances.

Before providing an accommodation, the APHA must determine that the person meets the definition of a person with a disability, and that there is a nexus or connection between the disability and the accommodation in order to enhance the family's access to the APHA's programs and services. If a person's disability is obvious, or otherwise known to the APHA, and if the need for the requested accommodation is readily apparent or known, no further verification will be required.

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

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.
- The APHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The APHA will not inquire about the nature or extent of any disability.

1.2.3 Live-In Aide

APHA Policy

A Live-In Aide may be approved as a reasonable accommodation for those who are elderly, near elderly and those with a verified disability once the appropriate documentation is provided.

1.2.4 Approval/Denial of a Requested Accommodation

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

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

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the APHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

1.3 DENIAL OR TERMINATION OF ASSISTANCE

The APHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation.

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

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

When reviewing reasonable accommodation requests, the APHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the APHA's decision to deny or terminate assistance.

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

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

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

The phrase "physical or mental impairment" includes:

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

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

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

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

The definition of a person with disabilities DOES NOT INCLUDE:

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

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws.

Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

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

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

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

- Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*
- In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) In General
The term "developmental disability" means a severe, chronic disability of an individual that:

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

(B) Infants and Young Children
An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.
A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

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

Chapter 2

APPLICATIONS, WAITING LIST, AND TENANT SELECTION

2.1 APPLYING FOR ASSISTANCE

Families wishing to apply to the HCVP must complete an application for housing assistance. Although the method will usually be to accept applications by email/mail, alternate application methods may be approved by the APHA Administrator as appropriate. **APHA must include Form HUD-92006**, Supplement to Application for Federally Assisted Housing, as an attachment to APHA's application. This form gives applicants the option to identify an individual or organization that APHA may contact and the reason(s) the individual or organization may be contacted. This part also describes APHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

Applicants may be admitted to the HCVP either as a special admission or as a Waiting List admission. If HUD awards funding targeted for families with specific characteristics or families in specific units, the APHA will use the assistance for those families.

The APHA has targeted funds for the Veterans Administration Supportive Housing (VASH) Program. VASH applicants are approved first by the local Veterans Administration Medical Center (VAMC) and then submitted to the APHA. VASH applicants do not submit applications directly to the APHA and there is no Waiting List maintained by the APHA for these applicants.

APHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard APHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with LEP.

2.1.1 Limited English Proficiency (LEP)

APHA is required to take reasonable steps to ensure meaningful access to the programs and activities by persons with limited English proficiency [24 CFR 1]. APHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with LEP.

This section discusses how the Arizona Department of Housing (ADOH) complies with laws relating to non-discrimination laws relating to people with limited English proficiency. By federal law the Agency is required to comply.

The Limited English Proficiency (LEP) regulations identify four factors to be considered. They are:

1. The number or proportion of LEP persons served or encountered in the eligible service population. *Within the ADOH service area the only language that meets threshold requirements for LEP is Spanish.*

2. The frequency with which LEP individuals come into contact with the program. *Individuals come into contact with the agency through the Section 8 Housing Choice Voucher Program and Save Our Home AZ Program. Materials that are provided to the public for these two programs will be made available in Spanish.*

3. The nature and importance of the program, activity, or service provided by the program.

4. The resources available to the recipient and costs. *Costs to translate the materials identified above are minimal and reasonable, so cost has not been determined a factor to decline translation.*

APHA Policy

APHA has developed a written LEP plan/standard operating procedure. The following five steps were taken when developing the plan. APHA: (1) Identified persons with LEP who need language assistance; (2) identified language assistance measures; (3) trained staff; (4) provided notice to persons with LEP; and (5) is monitoring and updating the LEP plan as needed. The plan will be reviewed on an ongoing basis and will be updated as needed to address the needs of APHA's LEP population.

2.2 OPENING AND CLOSING THE WAITING LIST

APHA Policy

The APHA will open the Waiting List when the Waiting List has been exhausted, with HUD guidance, and/or at the discretion of the Administrator. The APHA will provide ample public notice when the Waiting List is open.

Such notice will be posted on the Arizona Department of Housing website and will include a display ad in the local newspapers, notices to local social service agencies, other housing authorities, local libraries, and municipality offices. Notices will include the open dates and instructions for obtaining an application.

The Waiting List is open only for the dates/times specified in notices and advertisements.

2.3 APPLICATION PROCESS

APHA Policy

On the specified date(s), at the specified time(s), applicants must call the APHA 800 number and request an application. Applications are limited to one per phone call. The requestor's name and address and the date and time the call was received is entered on the Application Intake Log.

Applications are then emailed/mailed to those callers. The application will clearly identify the date by which the application must be postmarked (returned to the APHA).

Applications will be date-stamped upon arrival. The envelope for each application will be copied and stapled to the application since the postmark is proof of timely submission. If an application is submitted by hand-delivery, the person accepting the application must note personal acceptance of the document and indicate the date received.

Applications meeting the timely submission requirements are compared to the Application Intake Log. ***Date and time of the application phone call is used for placement on the Waiting List***.

Persons who require a reasonable accommodation to complete an application may contact the APHA to make arrangements for assistance or other accommodations as needed to ensure the program is accessible. A Text Telephone (TTY) or Telecommunication Device for the Deaf (TDD) is available for the hearing impaired: 602-771-1001.

2.3.1 Mail

APHA Policy

The APHA is not responsible for mail delivery problems. Applicants must receive the initial application at the mailing address provided at intake. If mail is returned as undeliverable, unclaimed, or with a forwarding address, the applicant will be considered non-responsive with no further action taken on the part of the APHA.

2.3.2 Waiting List Placement

The APHA must review each complete application received and make a preliminary assessment of the family's eligibility.

The APHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application. Where the family is determined to be ineligible, the APHA must notify the family in writing. Where the family is determined to be eligible, the family will be placed on a Waiting List of applicants.

APHA Policy

Preferences will be determined at application and applicants placed on the Waiting List according to date and time of application phone call. Annual income will be determined based on the information provided on the application and a determination made whether the household qualifies as an "Extremely Low-Income (families whose income does not exceed the higher of 30% of the area median income)" applicant.

Applicants will remain on the Waiting List in the order originally determined when the application was accepted. Changes in household income or family status will not change an applicant's place on the Waiting List.

A final determination of the family's eligibility will be determined when their name is pulled from the Waiting List. When a family on the Waiting List breaks up into two otherwise eligible families, only one of the families may retain the original application date/time. Upon notification (during the Waiting List selection process), the APHA will wait up to 10 days for the families to decide who will retain the original application date/time. If the family is unable to decide within that time frame, the person who initially contacted APHA by telephone for application will be chosen to retain the original application date/time. The secondary family may submit a new application with a new application date/time when the Waiting List is open.

2.3.2-1 Ineligible for Placement on the Waiting List

APHA Policy

If the APHA can determine from the information provided that a family is ineligible, the family will not be placed on the Waiting List. Where a family is determined to be ineligible, the APHA will send written notification of the ineligibility. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so, as well as required Violence Against Women Reauthorization Act of 2013 information.

2.3.2-2 Eligible for Placement on the Waiting List

APHA Policy

The APHA will send written notification of the preliminary eligibility determination. Placement on the Waiting List does not mean that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when a family is selected from the Waiting List.

2.4 MANAGING THE WAITING LIST

2.4.1 Report Change of Address

APHA Policy

Change of address should be reported to the APHA for contact purposes only. Waiting List position/status will not change based on a change of mailing address.

If APHA mail is returned with no forwarding address, the applicant's name will be removed from the Waiting List.

2.4.2 Updating the Waiting List

APHA Policy

For Applicants on the Waiting List longer than 12 months, each year between October 1 and December 31, the APHA will mail letters to applicants notifying them of their place on the Waiting List. If mail is returned with no forwarding address,

a letter will be mailed to the last known mailing address advising the applicant that mail was returned and allowing them 15 days to respond with their current address. If no response, the applicant will be removed from the Waiting List with no further contact on the part of the APHA. Letters returned with a forwarding address will be mailed to the new address.

The family will have 15 calendar days to respond from the date the letter was re-sent. If the family fails to respond within the time frame, the family will be removed from the Waiting List without further notice.

When a family is removed from the Waiting List during the update process for failure to respond, no informal review will be offered. Such failures to act on the part of the applicant prevent APHA from making an eligibility determination; therefore no informal review is required.

If a family is removed from the Waiting List for failure to respond, APHA's Administrator or his or her designee may reinstate the family if s/he determines the lack of response was due to APHA error, or to circumstances beyond the family's control.

2.5 SELECTION FOR HCV PROGRAM ASSISTANCE

2.5.1 Preferences and Income Targeting

APHA Policy

The APHA will offer a preference to any family that is on the Waiting List and has been terminated from its HCVP due to insufficient program funding. APHA will use the following preferences.

Families displaced as a result of natural disaster or government action shall be given preference. The following documentation will be used to verify displacement status:

- Certification from a unit of government concerning displacement due to natural disaster; or
- Certification from a unit of government concerning displacement due to code enforcement or public improvement/development or displacement by inaccessibility of a unit.

The displacement must have occurred within six months of requesting the involuntary displacement preference.

Income Targeting Requirement [24 CFR 982.201(b)(2)]

In order to meet statutory requirements, the APHA will admit no fewer than 75% of newly admitted families in any fiscal year at or below Extremely Low-Income (30% or less of the area median income), unless a different target is mandated by HUD. The APHA retains the right to bypass higher income families on the Waiting List to meet income targeting requirements.

APHA system of preferences may select families either according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the Waiting List PHAs are required to use targeted funding to assist only those families who meet the specified criteria, and PHAs are not permitted to skip down the Waiting List to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the Waiting List [24 CFR 982.204(d) and (e)].

Applicants will be selected from the Waiting List based on selection preference(s) for which they qualify, and in accordance with APHA's hierarchy of preferences; if applicable. Within each preference category, families will be selected on a first-come, first-served basis according to the date and time of their placement on the Waiting List by APHA.

Including the criteria above, for purposes of establishing priority, each preference below is weighted equally and each applicant family can be granted a maximum of one preference at one time. Applicants will be chosen in the following *(chronological)* order:

First: Applicants who reside in Yavapai County and who are:
(The subcategories below will also be chosen in chronological order.)
(1.) sixty-two (62) years of age or older and/or disabled and are homeless
(2.) have dependent children and are homeless
(3.) veteran of the United States military and homeless
(4.) do not have dependent children and are homeless
(5.) are participating in a state-funded job training program and are homeless

For APHA's Waiting List preference and selection purposes, the following HUD definitions (HUD Notice PIH 2013-15) of ***homeless*** will be applied:

Category 1: An individual or family who ***lacks a fixed, regular, and adequate nighttime residence***, meaning:

a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; ***or***
b. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low- income individuals); or
c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

Category 4: Any individual or family who:

a. Is ***fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking***, or other

dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; ***and***

b. Has no other residence; ***and***
c. Lacks the resources or support networks, e.g., family, friends, and faith- based or other social networks, to obtain other permanent housing

Note: A PHA is permitted to adopt an alternative or narrower definition of homeless for the purpose of a waiting list preference based on local need. PHA's that do this, however, will still be required to use the definition cited above for purposes of reporting homeless of new admissions on the Form HUD 50058.

Second: Applicants who reside in Yavapai County and who are:
(The subcategories below will also be chosen in chronological order.)
(1.) sixty-two (62) years of age or older and/or disabled
(2.) have dependent children
(3.) veteran of the United States military
(4.) do not have dependent children
(5.) are participating in a state-funded job training program

Third: Applicants who reside in Yavapai County and who are:
(1.) employed for wages.

Fourth: All other applicants.

The APHA will not deny a local preference, nor otherwise exclude or penalize a family in admission to the program solely because the family resides in public housing.

2.5.2 Waiting List Admissions and Violence Against Women Reauthorization Act of 2013 (VAWA 2013)

The full provisions of the VAWA 2013 (as of this publication date) may be found in Chapter 3.

APHA Policy

Families will be selected from the Waiting List based on whether the applicant has the first, second, third, or fourth preference. The date and time of the application will be utilized to determine the sequence within the APHA's prescribed preferences.

The APHA will not deny program assistance to an applicant or participant solely because the applicant or participant is or has been the Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking. Owners and Managers may not deny tenancy to a lease applicant solely because the applicant or participant is or has been the Victims of Domestic Violence, Dating Violence,

Sexual Assault, and Stalking.

2.5.3 Selection Notification

APHA Policy

When a family has been selected from the Waiting List, the APHA will notify the family/applicant by first class mail. The notice will provide the date (14 days from the mail date) by when all information must be postmarked for return to the APHA. The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance.

The notice will inform the applicant that their name will be removed from the Waiting List if the information is not returned by the required date. At a minimum, the forms listed below will be included with the notice:

Application for Housing Assistance

Request for Rental History

Divestiture of Assets

Form HUD-9886, HUD Authorization for Release of Information

Form HCV-1, APHA Authorization for Release of Information

Participant Certifications

Citizenship Declaration form

Form HUD-5380 Notice of Occupancy Rights Under the Violence Against Women Act

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation

If the requested information (application, rental history, etc.) is received late (is not postmarked by the required date) a notice of denial will be sent to the applicant. The notice will allow the applicant the opportunity to request an informal review.

If there is no response from the applicant, the applicant will be removed from the Waiting List. The APHA will notify the applicant of the intended action by mailing a letter to the last known address of the applicant.

The letter will provide a brief explanation for the action and allow the applicant the opportunity to request an informal review.

If a notification letter/application package is returned to the APHA with a forwarding address, the APHA will mail the application package to the new address.

2.5.4 Completing the Application Process

The APHA must verify all information provided by the family. Based on verified information, the APHA must make a final determination of eligibility and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the Waiting List.

APHA Policy

If additional information is required to determine eligibility, the APHA will request the additional information from the family, allowing 10 days for a response. If the request for information is returned with a forwarding address, the request will be sent again, this time to the new address. If there is no response 10 days or the response is postmarked after the due date, the applicant's name will be removed from the Waiting List. The applicant will be notified of the action and provided the opportunity for an informal review.

If the APHA determines that the family is ineligible, the APHA will send written notice of the ineligibility determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review.

If the family no longer qualifies for the preference they were given at application, the preference will be changed and the applicant returned to the Waiting List with the revised preference and the original application date and time. If however, the applicant is now over income, the applicant will be notified of such and their name removed from the Waiting List.

If the APHA determines that the family is eligible to receive assistance, the family will be invited to attend a briefing.

2.6 NOTIFICATION OF NEGATIVE ACTIONS

APHA Policy

The APHA will remove an applicant's name from the Waiting List when:

- The applicant request their name be removed;
- The applicant fails to respond to a written request for information;
- The applicant misses a scheduled appointment without good cause;
- The applicant does not meet the eligibility or screening criteria for the program; or
- The applicant declines assistance.

Prior to removing an applicant's name from the Waiting List or denying admission to the program, the APHA will notify the applicant in writing of the intended action. The notice must contain a brief statement of the reason(s) for the decision and allow the applicant the opportunity to request an informal review.

Chapter 3

ELIGIBILITY

3.1 FAMILY AND HOUSEHOLD MEMBERS

The terms *family* and *household* have different meanings in the HCVP.
[24 CFR 982.201(c); HUD-50058 Instruction Booklet, Page 13; FR Notice 02/03/12]

3.1.1 Family

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

- *Gender Identity* means actual or perceived gender characteristics.
- *Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

<u>APHA Policy</u>

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but whose income and other resources will be available to meet the needs of the family.

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

3.1.2 Household

Household is a broader term that includes additional people who, with the APHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

3.1.3 Head of Household

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

APHA Policy

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

3.1.4 Spouse, Co-head, and Other Adult

A family may have a spouse or co-head, but not both.

Spouse means the marriage partner of the head of household.

APHA Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in some states' laws. The Arizona Revised Statute Title 25 has no provisions for common law marriage in the state of Arizona. The state of Arizona *may* recognize a common law marriage from another state. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

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

APHA Policy

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

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

3.1.5 Dependent

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

Joint Custody of Dependents

APHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the

initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the APHA will make the determination based on available documents such as court orders or an IRS tax return showing which family has claimed the child for income tax purposes.

3.1.6 Family Break-Up

The APHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the APHA is bound by the court's determination of which family members continue to receive assistance. The APHA will also follow any applicable HUD guidance regarding family break-up, to include the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). Please see Paragraph 3-10 below for further information. The APHA does not enter into any leases with any residents; therefore lease bifurcation will be at the discretion of the property owner.

APHA Policy

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.
In the absence of a judicial decision or an agreement among the original family members, the APHA will determine which family will continue to receive assistance, taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) recommendations of social service professionals.

3.1.7 Guests

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

APHA Policy

A guest can remain in the assisted unit up to 15 consecutive days or 60 cumulative calendar days during any 12-month period. If the landlord's policy for visitors/guests allows for less consecutive or cumulative days, the landlord's policy shall prevail.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 20 consecutive days). The family must identify and provide documentation of the residence to which the guest will return.

A family may request an exception to this policy for a student who was previously considered a family member. An exception may be granted to allow the student to reside in the unit for the period s/he is not attending school. A written request must be submitted prior to the stay and approved by the APHA.

3.1.8 Foster Children and Foster Adults

Foster children and foster adults whom are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction.

APHA Policy

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

A foster child or foster adult may be allowed to reside in the unit if their presence does not violate HQS space standards.

3.1.9 Absent Family Members

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

3.1.9-1 Definitions of Temporarily and Permanently Absent

APHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. An individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member.

3.1.9-2 Absent Students

APHA Policy

When someone who has been considered a family member attends school away from home, the person is no longer considered a family member.

3.1.9-3 Absences Due to Placement in Foster Care

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

APHA Policy

If a child has been placed in foster care, the APHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member for 6 months. If the child has not been returned to the home by then, the family will no longer receive the dependent deduction and, if over-housed, will be asked to relocate to a unit of the appropriate size based on APHA occupancy standards no later than at their next annual recertification.

If the agency that removed the child from the home indicates in writing that the parent's home must be of a particular size e.g., 2-bedroom, before the child can be returned, the APHA may consider allowing the family to remain in place.

3.1.9-4 Absent Head, Spouse, or Co-Head

APHA Policy

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment is considered a family member.

3.1.9-5 Family Members Permanently Confined for Medical Reasons

If a former family member is permanently confined to a nursing home, hospital, or assisted living facility, that person is no longer considered a family member and the income of that person is not counted.

APHA Policy

The APHA will request verification from a recognized medical professional. If the recognized medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is permanently confined and request that the person not be considered a family member.

3.1.9-6 Return of Permanently Absent/Confined Family Members

APHA Policy

The family must request APHA approval for the return of any family members that the APHA determined to be permanently absent or confined. The individual is subject to eligibility and screening requirements.

3.1.10 Live-in Aide

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

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

APHA Policy

A family's request for a live-in aide must be made/reduced to writing. Appropriate verification in accordance with HUD guidelines will be required from a recognized medical professional such as a physician, psychiatrist, or other medical practitioner or health care provider, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

If there are any changes in a household's live-in aide(s), the family must report this/these changes (See Report Changes Form) to the APHA and if applicable, submit a new, written request that will be subject to APHA verification.

The live-in aide is subject to the same criminal background check and other screening as is performed for all applicants and participants.

The APHA will not complete a move-in, initial, or unit transfer (approval of a larger unit) to accommodate a live-in aide until the live-in aide has been verified/approved as noted above by the APHA.

3.2 CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

APHA Policy

The APHA will not assist a family before verifying citizenship and/or eligible immigration status of at least one family member.

For citizens or nationals of the United States:

- DECLARATION: For each family member with this status, a declaration of citizenship signed under penalty of perjury. For each adult, the declaration must be signed by the adult. For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

For non-citizens claiming/with eligible immigration status who is 62 years of age or will be 62 years of age and receiving assistance on the effective date 9/6/96:

- DECLARATION: For each family member with this status, a declaration of eligible immigration status signed under penalty of perjury. Adults must sign their own declarations.
- AND: Proof of age.

For all other non-citizens claiming/with eligible immigration status:

- DECLARATION: For each family member with this status, a declaration of eligible immigration status signed under penalty of perjury. Adults must sign their own declarations.
- AND: Acceptable DHS verification. The APHA will verify through the U.S. Department of Homeland Security's SAVE system. If the SAVE system does not verify eligible immigration status, APHA will request secondary verification. The household or family member will be eligible for assistance as part of an already-assisted household until the secondary verification process is completed and a decision rendered as to eligibility.

The APHA will verify the citizenship or immigration status of new household members before approving the addition to the household.

3.2.1 Ineligible Noncitizens and Mixed Families

APHA will not verify status for those declaring ineligible non-citizen status (pro-rated assistance households).

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible non-citizen. Families that include eligible and ineligible individuals are considered *mixed families*. Assistance for such families will be pro-rated. The family may request a hearing if they contest this determination.

3.2.2 Ineligible Families

APHA Policy

When the APHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, the family will be sent a written notice. The notice will explain the reasons for denying assistance and will advise the family of its right to request an appeal to the United States Bureau of Citizenship and Immigration Services (USCIS), or to request an informal hearing with the APHA. The informal hearing with the APHA may be requested in lieu of the USCIS appeal or at the conclusion of the USCIS appeal process.

The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

3.3 SOCIAL SECURITY NUMBERS

Applicants and all members of the household must provide acceptable documentation of a valid Social Security Number (SSN) except for those individuals who do not contend to have eligible immigration status (pro-rated assistance households).

Applicants will be notified in the initial contact letter (next on the waiting list) that they must provide SSN documentation at the briefing. Those who cannot provide acceptable documentation will be denied a voucher (except during the scenarios below) and their name returned to the top of the waiting list. If an applicant cannot provide the required documentation the next time a voucher becomes available, their name will be moved to the bottom of the waiting list.

An applicant family lacking the necessary documentation to verify the *assigned* Social Security Number (SSN) of a family member under the age of 6 years will be a 90-day period to obtain the necessary documentation to verify the SSN. An extension of one additional 90-day period will be granted if the APHA determines that the applicant family's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the family.

A participant family will be afforded the same provisions whether the SSN has or has not been *assigned*.

3.4 STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential.

Section 8 assistance shall not be provided to any student who:

- Is under the age of 24; and
- Is not married; and
- Is not a veteran; and
- Does not have a dependent child; and
- Is not a person with disabilities receiving HCV assistance as of November 30, 2005; and
- Is not living with his or her parents; and
- Is not individually eligible to receive Section 8 assistance *or* has parents (the parents individually or jointly) who are not income eligible to receive Section 8 assistance. **NOTE:** Unless the student can demonstrate his or her independence from parents, the student must be eligible to receive Section 8 assistance **and** the parents (individually or jointly) must be eligible to receive Section 8 assistance in order for the tenant to receive Section 8 assistance.

As noted in the Federal Register / Vol. 81, No. 183 / Wednesday, September 21, 2016 / Notices:

- HUD adopted the U.S. Department of Education's definition of an "independent student," Section 480(d) of the Higher Education Act (HEA) of 1965.
- A student, under the age of 24 who meets the additional criteria of Section 327, may still be income eligible for assistance in circumstances where the student can demonstrate independence from parents, where the student can demonstrate the absence of parents, or where an examination of the student's parents' income may not be relevant.
- HUD is updating the definition of ''independent student'' to include the more expansive definition found in HEA, as amended by the College Cost Reduction and Access Act of 2007. ED's definition of ''independent student'', which now applies is:
    a. The individual is 24 years of age or older by December 31 of the award year;
    b. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age of older;

c. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
d. The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
e. The individual is a graduate or professional student;
f. The individual is a married individual;
g. The individual has legal dependents other than a spouse;
h. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 et seq.), or as unaccompanied, at risk of homelessness, and self-supporting, by—
(i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;
(ii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
(iii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director; or
(iv) a financial aid administrator; or
i. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

- HUD also provides through this guidance that an individual who meets ED's ''independent student'' definition in paragraph (b), (c), or (h), as adopted in Section II of this notice, are considered ''vulnerable youth'' for purposes of this guidance, and provides that when a PHA, owner or manager determines an individual is a ''vulnerable youth'' such determination is all that is necessary to determine a person is an ''independent student'' for purposes of using only the student's income for determining eligibility for section 8 assistance.

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the APHA will rely on the definitions in the applicable Federal Register.

Dependent Child

In the context of the student eligibility restrictions*, dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* in 24 CFR 5.603.

Foster children and foster adults are not considered dependents.

Independent Student

APHA Policy

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

The individual is of legal contract age under state law.

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

To be considered an *independent student*, please see the definitions above and as noted in the Federal Register / Vol. 81, No. 183 / Wednesday, September 21, 2016 / Notices.

Institution of Higher Education

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

Parents

APHA Policy

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

Person with Disabilities

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

Veteran

APHA Policy

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

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the APHA must determine whether the student is subject to the eligibility restrictions. Please see please see the guidelines/definitions above and as noted in the Federal Register / Vol. 81, No. 183 / Wednesday, September 21, 2016 / Notices.

Determining Parental Income Eligibility

APHA Policy

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

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

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

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

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

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

3.5 SCREENING

3.5.1 APHA Screening

APHA Policy

Criminal History

Prior to admission, the APHA will perform a criminal background check by obtaining a fingerprint card from every adult member of the household, including live-in aides. Fingerprint cards will be submitted to the Arizona Department of Public Safety or other organization approved by the FBI to process fingerprint cards. The APHA must receive acceptable results of the criminal background prior to admission into APHA's HCV program. APHA staff will also conduct a search of public records to ensure the applicant or participant is not a registered sex offender. In order to perform the sex offender screening, the APHA will use the Dru Sjodin National Sex Offender Database, an online, searchable database hosted by the Department of Justice, which combines the data from individual state sex offender registries and/or other available national, state, or local resources.

NOTE: VASH applicants/participants are exempt from the criminal background check. However, the APHA will perform the required search of public records for registered sex offenders. VASH applicants who are registered sex offenders may not be admitted to the HCVP.

If the processing agency rejects a fingerprint card, the applicant will be required to submit a second card. If the second card is also rejected, the APHA administrator may consider the reason for rejection, applicant's age, and other factors and may waive the requirement. If a waiver or exception is approved, a search of state court records will serve as the background check.

Before the APHA can deny admission or continued occupancy, the applicant will be notified of the right to dispute the accuracy and relevance of the criminal background check information (see 24 CFR § 960.204(c) and § 982.553(d)).

Enterprise Income Verification system (EIV)

The APHA will utilize EIV to ensure the applicant or participant does not owe another housing authority and is not receiving other HUD housing subsidy. The APHA will print and maintain the results of an **EIV Existing Tenant Search** to determine if an applicant or any members of an applicant's household are being assisted under a HUD rental assistance program at another location.

Results of the Existing Tenant Search must be retained with the application:
(a) If applicant is not admitted, the application and search results must be retained for three years.
(b) If applicant is admitted, the application and search results must be retained in the tenant file for the term of tenancy plus three years.

Adverse termination information obtained through EIV will be verified by contacting the housing authority providing the information. If a household member owes another PHA, the family will be provided a copy of the Debt Owed to PHA report. The family must repay the reporting PHA and provide a receipt of payment within 30 days of notification to be considered an eligible applicant.

The APHA administrator will consider applicants on a case-by-case basis when a previously assisted family or household member was adversely terminated from the Housing Choice Voucher or Public Housing program.

Exception: The only screening for VASH applicants is for registered sex offenders. All other screening is waived.

3.5.2 Screening for Suitability as a Tenant

APHA Policy

The APHA will not conduct additional screening to determine an applicant family's suitability for tenancy. The APHA will inform owners of their responsibility to screen prospective tenants. The APHA will only provide owners with the current and prior address and landlord contact information when the RFTA is submitted.

The owner is responsible for screening and selection of the family to occupy the owner's unit.

3.6 MANDATORY DENIAL OF ASSISTANCE

The APHA will deny assistance if:

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

APHA Policy

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

B. Any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

C. The APHA determines through verification that any household member is currently engaged in the use of illegal drugs.

APHA Policy

Currently *engaged in* is defined as verifiable illegal drug usage during the application process (this includes medical marijuana) and/or illegal drug usage that threatens APHA staff (at any location/meeting) and/or Owner/Agent staff or right to peaceful enjoyment of the premises or any associated individual (at the property).

As Arizona has enacted laws legalizing the use of medical marijuana, the APHA allows HCV assistance for residents who are medical marijuana users. The APHA has no control over Owner/Agent practices, policies, and/or procedures in this regard.

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

APHA Policy

In determining reasonable belief, the APHA will consider all credible evidence, including but not limited to, any record of convictions or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an eviction. The APHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

E. Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing (denied for life).

F. Any household member is subject to a lifetime registration requirement under a state sex offender registration program (denied for life).

Note: VASH applicants may only be denied if they are registered sex offenders.

APHA Policy

If any household member is currently engaged in, or it has been verified that he/she has engaged in the criminal activities listed below and within applicable time frame, the family will be denied assistance.

The APHA may admit an otherwise-eligible family if the APHA is able to verify that the household member who engaged in the criminal activity is no longer living in the household or, if drug related criminal activity, the household member has successfully completed a supervised drug rehabilitation program.

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

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

3. Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity (immediate vicinity means within a three-block radius of the premises).

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

5. Criminal activity including fraud, bribery or other corruption.

6. Criminal/intentional misrepresentation of information related to their housing application or benefits derived there from.

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

Any conviction for drug-related or other criminal activity within the applicable time frame.

Any verified drug-related or other criminal activity within the applicable time frame.

Any record of eviction from public or privately owned housing because of criminal activity within the applicable time frame.

3.7 OTHER ACTIONS

APHA Policy

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

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

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

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

Any family member found to have manufactured or produced methamphetamine on the premises of federally assisted housing and Sex offenders subject to a lifetime registration requirement under a State sex offender registration program (24 CFR 960.204, 24 CFR 982.553).

Any family member who has been evicted from federally assisted housing in the last three years for drug-related criminal activity. The APHA retains the right to consider the circumstances and may admit a member who has successfully completed a supervised drug rehabilitation program.

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

The family owes rent or other amounts to any housing authority. (Note: The APHA will verify the debt owed and allow the family 30 days to pay the debt owed and provide verification. If the debt is paid, the family will be considered an eligible applicant.)

The family has breached the terms of a repayment agreement entered into with the APHA, unless the family brings payments to a current status prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward APHA personnel.

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

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

The APHA **may** deny assistance if any member of the family or household was previously terminated from the HCVP by any housing authority for an “adverse termination” as provided in the EIV system. (Note: The APHA will verify the adverse termination and consider admission on a case-by-case basis.)

3.8 CRITERIA FOR DENYING ASSISTANCE

3.8.1 Evidence

APHA Policy

The APHA will use verification and the concept of the preponderance of evidence as the standard for making admission decisions.

Preponderance of the evidence will always be used in conjunction with verified information that may include verbal, written, and/or any combination thereof.

3.8.2 Consideration of Circumstances

The APHA may consider all relevant circumstances when deciding whether to deny assistance based on a family's history except in the situations for which denial of assistance is mandated.

APHA Policy

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

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

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

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

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

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

3.8.3 Removing a Family Member's Name from the Application

APHA Policy

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

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

3.8.4 Reasonable Accommodation

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

APHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the APHA will determine whether the behavior is related to the disability. If so, upon the family's request, the APHA will determine whether alternative measures are appropriate as a reasonable

accommodation. The APHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance.

3.9 NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the APHA will notify the family and extend an invitation to attend a briefing.

If the APHA determines that a family is not eligible for the program, the family must be notified promptly.

The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review.

APHA Policy

If an applicant family appears to be ineligible based on criminal record or sex offender registration information, the APHA will notify the family in writing. The notice will include a statement and the VAWA – Notice of Occupancy Rights (Form HUD-5380) with the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (Form HUD-5382).

The family will be given 15 days to dispute the accuracy and relevance of the information. If the family does not contact the APHA to dispute the information within that 15-day period, the APHA will proceed with issuing the notice of denial of admission.

3.10 VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSUALT, AND STALKING

Violence Against Women Reauthorization Act of 2013 (VAWA 2013).

The Final Rule was published in the Federal Register on November 16, 2016. This final rule implements in HUD's regulations the requirements of the 2013 reauthorization of the Violence Against Women Act (VAWA), which applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistent with all nondiscrimination and fair housing requirements. The 2013 reauthorization (VAWA 2013) expands housing protections to HUD programs beyond HUD's public housing program and HUD's tenant-based and project based Section 8 programs (collectively, the Section 8 programs) that were covered by the 2005 reauthorization of the Violence Against Women Act (VAWA 2005).

Additionally, the 2013 law provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking. Specifically, this rule amends HUD's generally applicable regulations, HUD's regulations for the public housing and Section 8 programs that already pertain to VAWA, and the regulations of programs newly covered by VAWA 2013. In addition to this final rule, HUD is publishing a notice titled the Notice of Occupancy Rights (Form HUD-5380) under the Violence Against Women Act that certain housing providers must give to tenants and applicants to ensure they are aware of their rights under VAWA and these implementing regulations,

a model emergency transfer plan that may be used by housing providers to develop their own emergency transfer plans, a model emergency transfer request form that housing providers could provide to tenants requesting an emergency transfer under these regulations, and a new certification form for documenting incidents of domestic violence, dating violence, sexual assault, and stalking that must be used by housing providers.

If an individual meets all eligibility requirements and complies with all occupancy requirements, the individual cannot be denied assistance or have assistance terminated solely on the basis that the individual is a victim of domestic violence, dating violence, stalking, or sexual assault.

APHA's Emergency Transfer Plan (sample Form HUD-5381) is publicly available upon request. The plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request a transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. As the APHA does not own or manage any physical assets (property), the emergency transfer may only consist of the issuance of a voucher to the victim(s) of a VAWA concern/incident.

As the APHA does not enter into any leases with any residents, lease bifurcation will be at the discretion of the property owner.

3.10.1 Notification and Documentation

APHA Policy

The APHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history that would warrant denial under the APHA's policies. Therefore, if the APHA makes a determination to deny admission to an applicant family, the APHA will offer the applicant/tenant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

The documentation may include the use of HUD's Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation, Form HUD-5382.

The APHA may use the Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 when an emergency transfer is requested.

Chapter 4

BRIEFING, VOUCHER, AND PARTICIPANT OBLIGATIONS

4.1 BRIEFING

Prior to issuing a voucher, applicants must attend a briefing where oral, visual, and written information will be communicated. The APHA will provide the family with a Briefing Packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the APHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2. Briefings will be conducted in English. For Limited English Proficient (LEP) applicants, the APHA will provide translation services in accordance with APHA's LEP plan, refer to Chapter 2.

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the APHA's jurisdiction;
- An explanation of portability; and
- An explanation of the advantages of moving to areas outside of areas with potential high-poverty concentrations.

Briefing Packet

Documents and information provided in the Briefing Packet includes the following:

- APHA Information:
  - Contact Information
  - Receiving a Voucher & Locating a Unit
  - Inspections
  - Recertifications
  - Portability & Expanding Housing Opportunities
  - Family Obligations
  - Termination of Assistance/Family-Caused Errors & Program Abuse
  - Appeals
  - Tips Every Tenant Should Know
- *Protect Your Family From Lead in Your Home* brochure
- *The Residential Landlord and Tenant Act*
- *A Good Place to Live* brochure

- *Housing Quality Standards (HQS) Inspections Tenant Tip Sheet*
- A*re You a Victim of Housing Discrimination*? (Form HUD-903.1)
- Fair Housing Information
- *How Your Rent is Determined* Fact Sheet
- *What You Should Know About EIV* brochure
- *Is Fraud Worth It?* brochure
- Tenancy Addendum
- Violence Against Women Act 2013:
    - Notice of Occupancy Rights: Form HUD-5380
    - Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation: Form HUD-5382
- Foreclosure information, *Foreclosure Is Not Good Cause To Terminate Tenancy*
- *Report Changes* form
- *Participant Certifications*
- *Affidavit That Document(s) Is/Are True*
- Voucher Term and Extensions (HCV-16)
- Privacy Act Statement (HCV-49)
- Request for Reasonable Accommodation
- Verification of Need for Reasonable Accommodation
- Yavapai County Map delineating areas of concentration
- List of neighboring PHAs with name, address, and telephone number
- Community Information Websites
- Owner/Landlord Information Packet

<u>APHA Policy</u>

All adult members of the household are required to attend the briefing and/or APHA must have verified adequate proof of age, identity, and eligibility prior to the issuance of a voucher.

Applicants must provide acceptable documentation of Social Security numbers for all members of the household claiming to be eligible for assistance. See Chapter 3 for further information. Those who cannot provide acceptable documentation will not be issued a voucher and their name returned to the top of the waiting list. If an applicant cannot provide the required documentation the next time a voucher becomes available, their name will be removed from the waiting list.

APHA staff will use the APHA Administrative Plan and Briefing Certification form as a guide for forms and additional information that must be provided to the APHA at the briefing.

Electronic/telephonic briefings will <u>not</u> be granted strictly for convenience reasons. Electronic/telephonic briefings may be granted/performed at the discretion of the Program Coordinator and will generally be granted as a result of elderly/medical necessity/disability. The APHA reserves the right to grant an electronic/telephonic briefing based on credible and/or verifiable reasoning.

Any required documents or information that the family is unable to provide at the briefing must be provided within 10 business days of the briefing. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the documents or materials are not provided within the required time frame plus any approved extension, the family will be sent a notice of denial (refer to Section 2.6) and removed from the Waiting List and/or their portability paperwork will be sent back to their initial Housing Authority.

Notification and Attendance

APHA Policy

The briefing notification will identify who is required to attend the briefing, the date and time of the scheduled briefing, and items the applicant or participant must bring to the briefing. The briefing notification may be completed electronically/telephonically with written confirmation of scheduling at the briefing.

If the notice is returned with no forwarding address, the applicant will be denied and their name will not be placed back on the Waiting List. A notice informing the applicant will be mailed to the last address of record and allow the applicant the opportunity of an informal review. If the notice is returned with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who cannot attend must reschedule with the APHA before the scheduled briefing date. Applicants may reschedule once. The applicant will be removed from the waiting list if they fail to attend the second scheduled briefing. The applicant will be notified and offered the opportunity for an informal review.

4.2 OCCUPANCY (SUBSIDY) STANDARDS

The APHA determines the appropriate number of bedrooms under the APHA occupancy standards and enters the family unit size on the voucher issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when APHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- If children are projected to be out of the home for a period of more than 6 months from the initial removal date but will be returned to the home, the voucher size may be reduced.

- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by APHA to reside in the unit) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under APHA subsidy standards.

APHA Policy

The APHA will assign one bedroom for each two persons within the household, unless an exception has been granted.

Live-in aides will be allocated a separate bedroom. A live-in aide's family members may be allowed to reside in the unit, however, a larger bedroom size would not be considered and the total number of people in the dwelling unit must meet housing subsidy standards. The live-in aide or live-in aide's family members will not be considered as remaining family members for continued occupancy purposes.

Single person families will be allocated one bedroom.

Foster children will be included in determining unit size only if they will be in the unit for more than 6 months.

The APHA will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	**Persons in Household (Minimum – Maximum)**
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	4-6
4 Bedrooms	6-8
5 Bedrooms	8-10

4.3 EXCEPTIONS TO OCCUPANCY STANDARDS

APHA Policy

The APHA will consider granting an exception for any reason specified in regulations: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a unit and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health

professional), unless the disability and the disability–related request for accommodation is readily apparent or otherwise known.

A family's continued need for an unoccupied bedroom must be verified every other year.

For example, if a disabled family needs an extra bedroom for medical equipment or auxiliary apparatus, the need for the extra bedroom must be verified every other year. An exception may be denied if the extra bedroom is no longer needed or if the room is not being used for its intended purpose.

APHA staff and/or its contracted agent may inspect the unit and verify that the exception is no longer needed.

4.4 VOUCHER ISSUANCE AND RECISSIONS

APHA Policy

Vouchers will be issued when all applicable information to determine eligibility has been provided to the APHA. This may be following the mandatory briefing.

4.4.1 Voucher Term

APHA Policy

The initial voucher term will be 4 months, approximately 120 calendar days.

The family must submit a Request for Tenancy Approval before the voucher expires unless the APHA grants an extension.

4.4.2 Voucher Term Extensions

APHA Policy

Vouchers may be extended in accordance with HUD guidelines.

4.4.3 Suspension of Voucher Term

APHA Policy

Upon submittal of a completed Request for Tenancy Approval, the APHA will suspend the term of the voucher until the request has been approved or denied.

4.4.4 Expiration of Voucher Term

APHA Policy

If an applicant's voucher term expires before the family has submitted a Request for Tenancy Approval, the family will be notified and encouraged to reapply for assistance when the waiting list is open.

4.4.5 Voucher Rescissions

APHA Policy

If, due to budgetary constraints, the APHA must rescind vouchers that have already been issued to families, the APHA will do so according to the instructions under each of the categories below. The APHA will first rescind vouchers that fall under Category 1. Vouchers in Category 2 will only be rescinded after all vouchers under Category 1 have been rescinded.

Category 1: Vouchers for which a Request for Tenancy Approval (RFTA) has not been submitted to the APHA: Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

Category 2: Vouchers for which a Request for Tenancy Approval has been submitted to the APHA: Vouchers will be rescinded in order of the date and time the RFTA was submitted to the APHA, starting with the most recently submitted requests.

Families who have their voucher rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with APHA selection policies.

4.5 PARTICIPANT OBLIGATIONS

The participant must supply any information that the APHA or HUD determines is necessary in the administration of the program.

Note: Benefits paid to a participant as the result of the participant's failure to provide information or providing incorrect information, must be repaid. It is the participant's responsibility to ensure that all information provided is accurate and reported in a timely manner.

4.5.1 Time Frame for Reporting Changes

APHA Policy

Unless otherwise noted, all changes in family composition or income must be reported in writing and postmarked within 10 days of the change. The family failed to report assets, increased income, and/or family composition two (2) times in any one (1)-year rolling period. Assistance will be terminated the second (2nd) time unreported assets, income or family composition occurs.

4.5.2 Add Family Member

APHA Policy

The request to add a family member must be submitted in writing and approved *prior* to the person moving into the unit. The APHA will determine eligibility of the new member in accordance with current policies.

APHA approval is required *before* the added family member moves into the household. Refer also to Chapter 10.

4.5.3 Notice to Move or Terminate Lease

APHA Policy

The family must notify the APHA and the owner, in writing, at least 30 days before the family moves out of the unit or terminates the lease by a notice to the owner.

4.5.4 Owner Eviction Notice

The family must promptly give the APHA a copy of any owner eviction notice it receives.

4.5.5 Use and Occupancy of the Unit

The family must use the assisted unit as its only residence.

Members of the household may engage in legal profit making activities in the unit, but only if such activities are incidental to the primary use of the unit as a residence. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses and permission of the owner/landlord.

The family must not sublease, assign or transfer the unit to another party.

APHA Policy

The family may have visitors/guests in the assisted unit for up to 30 days. If the landlord's policy for visitors/guests allows for less than a 30-day stay, the landlord's policy shall prevail. Refer to Section 3.1.7.

4.5.6 Absence from the Unit

APHA Policy

The family must supply any information requested to verify that the family is living in the unit, or relating to family absence from the unit.

The family must promptly notify the APHA of its absence from the unit. Absence means that no member of the family is residing in the unit.

The family may be absent from the unit for up to 30 days but must request permission, in writing, from the APHA for absences exceeding 30 days. The APHA will make a determination within 5 business days of the request. An authorized absence may not exceed 180 days. Any family absent for more than 30 days without authorization will be terminated from the program.

Authorized absences may be approved for prolonged hospitalization and for events beyond the control of the family (i.e., death in the family, other family member illness).

Refer also to Section 3.1.9.

4.5.7 Returned Mail

APHA Policy

Participants must ensure the APHA has the household's appropriate/correct mailing address. The APHA will forward only the notice of eligibility and briefing appointment. *No other mail will be sent to a forwarding address.* If mail is returned to the APHA as undeliverable or unclaimed, the participant is considered non-responsive and assistance may be terminated.

4.5.8 HQS Breach Caused by the Family

APHA Policy

The family is responsible for any HQS breach caused by the family or its guests.

4.5.9 Allowing APHA Inspection

APHA Policy

The family must allow the APHA or its contracted agent to inspect the unit at reasonable times and/or with 48-hour notice.

4.5.10 Lease Violation

APHA Policy

The family may not commit any serious or repeated minor violations of the lease. The APHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict.

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

4.5.11 Interest in the Unit

The family may not own or have any interest in the unit (except for owners of manufactured housing renting the manufactured home space).

4.5.12 Fraud and Other Program Violation

The members of the family shall not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

4.5.13 Crime by Family Members

APHA Policy

The APHA may terminate assistance for the family if a family member meets any of the qualifications for mandatory denial of assistance described in the Termination of Assistance chapter of this Administrative Plan.

The family must not engage in abuse of alcohol in a way that threatens the health or safety or right to peaceful enjoyment of other residents or other persons in the immediate vicinity of the premises.

4.5.14 Other Housing Assistance

No member of an assisted family or assisted household, may receive Section 8 assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

4.5.15 Requests for Information

APHA Policy

Not responding to requests for information is cause for termination of assistance. When the APHA requests information, the request letter will indicate when the response is due, generally 14 days from the date of the letter. A Final Notice will be mailed if there is no response to the initial request. If there is no response to the Final Notice by the due date, the APHA will terminate assistance.

EXHIBIT 4-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

1. The family must supply any information that the APHA or HUD determines to be necessary.

   Not responding to requests for information is cause for termination of assistance. When the APHA requests information, the request letter will indicate when the response is due, generally 14 days from the date of the letter. A Final Notice will be mailed if there is no response to the initial request. If there is no response to the Final Notice by the due date, we will terminate assistance.

2. The family must supply any information requested by the APHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

3. The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.

4. The family must disclose newly assigned social security numbers within 10 days of issuance.

5. The family must report all changes in income and family composition within 10 days of the change. The family failed to report assets, increased income, and/or family composition two (2) times in any one (1)-year rolling period. Assistance will be terminated the second (2nd) time unreported assets, income or family composition occurs. Assistance may be terminated at other times based on the participant's reporting history, the participant's failure to respond to a specific request for income, asset, or household information, or other instances as approved by the APHA administrator.

6. If the APHA discovers the participant has failed to report changes as required, the APHA will initiate an interim recertification and will implement rent changes as follows:

   An increase in TTP will be retroactive to the first of the month following the date the action occurred.

   A decrease in TTP will be implemented effective the first of the month following completion of the recertification.

7. Any information supplied by the family must be true and complete.

8. The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

9. Damages beyond normal wear and tear will be considered damages that could be assessed against the security deposit.

10. The family must allow the APHA to inspect the unit at reasonable times and after reasonable notice.
11. The family must not commit any serious or repeated violation of the lease.
12. The APHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict. Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used are whether the reason for the eviction was through no fault of the tenant or guests.
13. The family must notify the APHA and the owner before moving out of the unit or terminating the lease.
14. The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the APHA at the same time the owner is notified.
15. The family must promptly give the APHA a copy of any owner eviction notice.
16. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
17. The composition of the assisted family residing in the unit must be approved by the APHA. The family must promptly notify the APHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request APHA approval to add any other family member as an occupant of the unit.
18. The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The APHA will determine eligibility of the new member.
19. The family must promptly notify the APHA in writing if any family member no longer lives in the unit.
20. If the APHA has given approval, a foster child or a live-in aide may reside in the unit. The APHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when APHA consent may be given or denied.
21. The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
22. The family must supply any information requested by the APHA to verify that the family is living in the unit or information related to family absence from the unit.
23. The family must promptly notify the APHA when the family is absent from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the APHA at the start of the extended absence.

24. The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.
25. The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
26. Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.
27. Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity.
28. Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
29. An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
30. A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the APHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with a disability.

Chapter 5

INCOME AND SUBSIDY DETERMINATIONS

5.1 HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded in the regulations. It is the responsibility of the head of household to report changes in income and family composition in writing within 10 days.

5.2 TEMPORARILY ABSENT FAMILY MEMBERS

The income of family members approved to live in the unit will be counted even if the family member is temporarily absent from the unit.

APHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. An individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this policy are discussed below.

5.2.1 Absent Students

APHA Policy

When someone who has been considered a family member attends school away from home, the person is no longer considered a member of the family.

5.2.2 Absence Due to Placement in Foster Care

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

APHA Policy

If a child has been placed in foster care, the APHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member for 6 months. If the child has not been returned to the home by then, the family will no longer receive the dependent deduction and, if over-housed, will be asked to relocate to a unit of the appropriate size based on APHA occupancy standards.

5.2.3 Absent Head, Spouse, or Co-head

APHA Policy

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

5.2.4 Family Members Permanently Confined for Medical Reasons

If a family member is permanently confined to a nursing home, hospital, or assisted living facility, that person is no longer considered a family member and the income of that person is not counted.

APHA Policy

The APHA will request verification from a recognized medical professional and will use this determination. If the recognized medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is permanently confined and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualify as an elderly person or a person with disabilities.

5.3 JOINT CUSTODY OF DEPENDENTS

APHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the APHA will make the determination based on available documents such as a court order or a tax return.

5.4 CARETAKERS FOR A CHILD

APHA Policy

If neither a parent nor a designated guardian remains in a household receiving HCVP assistance, the APHA will take the following actions.

- If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After 90 days, the caretaker will be considered a family member unless information is provided to confirm that the caretaker's role is temporary. In such cases the APHA will extend the caretaker's status as an eligible visitor.
- When/if custody or guardianship is legally awarded to a caretaker, the voucher will be transferred to the caretaker.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted as annual income and the caretaker does not qualify the family for any deductions from income.

5.5 ANTICIPATING ANNUAL INCOME

The APHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date." The APHA generally will use current circumstances to determine anticipated income for the coming 12-month period.

<u>APHA Policy</u>

When EIV is obtained and the family does not dispute the EIV employer data, the APHA will use the current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, the APHA will accept the 4-6 most recent and consecutive pay stubs.

The APHA will obtain written and/or oral third-party verification in accordance with verification requirements in the following cases:

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If the APHA determines additional information is needed.

When the APHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the APHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish anticipated annual income. Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the APHA to show why the historic pattern does not represent the family's anticipated income.

HUD authorizes the APHA to use other than current circumstances to anticipate income when:

An imminent change in circumstances is expected [HCV Guidebook, P. 5-17]

It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]

APHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD guidelines.

Known Changes in Income

APHA Policy

If the APHA verifies an (imminent change) upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period, to the calculation of anticipated annual income.

Example: An employer reports that a full-time employee who has been receiving $8.00 per hour will begin to receive $8.25 per hour in the eighth week after the effective date of the certification. In such a case the APHA would calculate annual income as follows: ($8.00 per hour × 40 hours × 7 weeks) + ($8.25 per hour × 40 hours × 45 weeks).

The family may present information that demonstrates that anticipating annual income would create a hardship for the family. In such cases the APHA will calculate the anticipated annual income using current circumstances and then require an interim reexamination when the change occurs. This requirement will be imposed, even if the APHA's policy does not require interim reexaminations for this type of change (e.g. $200.00 cumulative family income increase).

5.6 EARNED INCOME

5.6.1 Wages and Related Compensation

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

APHA Policy

For persons who regularly receive bonuses or commissions, the APHA will verify and in accordance with HUD guidelines. The APHA will generally use the prior year amounts.

If a new employee has not yet received any bonuses or commissions, the APHA will count the amount estimated by the employer. The file will be documented appropriately.

5.6.2 Temporary, Nonrecurring, or Sporadic Income

This type of income (including gifts) is not included in annual income. However, according to [24 CFR 5.609(b)(7)]: Annual Income includes, but is not limited to…Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling…"

APHA Policy

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Nonrecurring gifts are not considered income, while periodic, determinable, and/or regular gifts (including those that come from different sources) are considered income. Periodic, determinable, and/or regular is defined as twice (2-times) in any 12-month rolling period.

Generally, income from temporary employment that does not culminate in permanent employment, will be considered temporary income. However, applicants and residents must report all temporary employment. Multiple temporary employment positions may be classified as periodic, determinable, and/or regular and are defined as twice (2-times) in any 12-month rolling period. APHA staff will obtain verification of employment dates and income from the employer and determine temporary income on a case-by-case basis. Documentation to support the decision will be maintained in the tenant file.

Refer to Chapter 13 for Compensated Work Therapy (CWT) and Incentive Therapy (IT) income for VASH participants.

5.6.3 State and Local Employment Training Programs

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

APHA Policy

The APHA defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time.

It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency.

Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education."

The APHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program.

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

End of participation in a training program must be reported in accordance with the APHA's interim reporting requirements.

5.6.4 Earned Income Disallowance

This disallowance applies only to individuals in families already participating in the HCVP (not at admission).

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her prior income.

APHA Policy

The APHA defines *prior income,* or *prequalifying income,* as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

5.6.4-1 Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

APHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

5.6.4-2 Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

5.6.4-3 Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance. If a family member is eligible for the EID for 24 straight months, the APHA is no longer required to track changes in family income for the four-year period.

APHA Policy

During the 48-month eligibility period, the APHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

5.7 BUSINESS INCOME

5.7.1 Business Expenses

Net income is gross income less business expenses.

APHA Policy

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

Expenses for business expansion and the amortization of capital indebtedness are *not* deducted from gross income.

APHA Policy

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

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery.

The APHA will allow interest, but not principal, paid on capital indebtedness to count as a business expense.

5.7.2 Withdrawal of Cash or Assets from a Business

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

APHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment.

For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the APHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

5.7.3 Co-owned Businesses

APHA Policy

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

5.8 ASSET INCOME

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

APHA Policy

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

5.8.1 Valuing Assets

APHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

5.8.2 Jointly Owned Assets

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

APHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the APHA will count the full value of the asset.

A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

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

5.8.3 Assets Disposed of For Less Than Fair Market Value

APHA Policy

The APHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years is $3,000 or more.

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

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

5.8.4 Assets from Separation or Divorce

Per regulation, assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement.

APHA Policy

To qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

5.8.5 Family Declaration of Assets

APHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets valued at $3,000 or more have been disposed of for less than fair market value. The APHA may verify the value of the assets disposed of if other information available to the APHA does not appear to agree with the information reported by the family.

5.8.6 Checking and Savings Accounts

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

APHA Policy

In determining the value of a checking account, the APHA will use the average monthly balance for the last six months.

In determining the value of a savings account, the APHA will use the current balance.

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

For annual recertification only: Participants must provide copies of bank statements for the prior six months. If the current balance is less than $3,000, additional verification is at the discretion of the APHA staff.

5.8.7 Investment Accounts: Stocks, Bonds, Saving Certificates, and Money Market Funds

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

APHA Policy

In determining the market value of an investment account, the APHA will use the value of the account on the most recent investment report.

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

5.8.8 Equity in Real Property or Other Capital Investments

APHA Policy

The market value of real property will be the assessed value for tax purposes as determined by the local assessor. The APHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the APHA will use the basic loan balance information to deduct from the market value in the equity calculation.

For purposes of calculating expenses to convert to cash for real property, the APHA will use ten percent (10%) of the market value.

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

5.8.9 Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., are considered assets.

APHA Policy

In determining the value of personal property held as an investment, the APHA will use the family's estimate of the value. The APHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is incorrect. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

5.9 LUMP SUM PAYMENTS

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

APHA Policy

When a delayed-start payment is received and reported during the period in which the APHA is processing an annual reexamination, the APHA will adjust the family share and APHA subsidy retroactively for the period the payment was

intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the APHA.

For an “arrears” child support lump sum payment, the amount will be included as an asset and an interim reexamination will be completed.

5.10 PERIODIC AND DETERMINABLE INCOME

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

5.10.1 Alimony and Child Support

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

APHA Policy

The APHA will count court-awarded amounts for alimony and child support unless the APHA verifies that payments are not being made.

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

5.10.2 Regular Contributions or Gifts

The APHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring, or sporadic income and gifts are not counted.

APHA Policy

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

APHA will count as income monetary and nonmonetary contributions or gifts to a family that may come from nonrecurring or different sources, but the family is able to pay an expense on a regular basis. For example, a family pays for cable television service monthly and receives monetary contributions to pay it from a different source each month. Note: This includes loans from any outside source.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the APHA. For contributions that may vary from month to month (e.g., utility payments), the APHA will include an average amount based upon past history.

5.10.3 Anticipating Expenses

APHA Policy

Generally, the APHA will use current family paid out-of-pocket items to anticipate expenses. For costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the APHA will use actual family paid out-of-pocket items for these expenses.

If a family has an accumulated debt for medical or disability assistance expenses, the APHA family paid out-of-pocket that are being made to anticipate expenses.

The APHA will require the resident-family to provide documentation of payments made in the preceding year.

5.11 ZERO OR NEGLIGIBLE INCOME

APHA Policy

Families with zero or negligible income must submit an Income Questionnaire each quarter until they report earned or unearned income on a regular basis.

5.12 MEDICAL EXPENSES DEDUCTION

Unreimbursed family paid out-of-pocket medical expenses will be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income. The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

APHA Policy

The APHA will use HUD guidelines to determine what qualifies as an allowable medical expense and the most current IRS Publication 502, *Medical and Dental Expenses,* will be used to help determine mileage rates for travel related to medical expenses.

Families That Qualify for Both Medical and Disability Assistance Expenses

APHA Policy

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the APHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

5.13 DISABILITY ASSISTANCE EXPENSES DEDUCTION

APHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the APHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the APHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

5.13.1 Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work." Auxiliary apparatus is further defined and described below.

5.13.2 Eligible Auxiliary Apparatus

APHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

5.13.3 Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

APHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense.

However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the APHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

5.13.4 Payments to Family Members

Disability assistance expenses cannot be deducted for payments to a member of an assisted family. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

5.13.5 Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

APHA Policy

The APHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the APHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the APHA will consider, the family's justification for costs that exceed typical costs in the area.

5.14 CHILDCARE EXPENSE DEDUCTION

HUD defines *childcare expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

5.14.1 Determining Who Is Enabled to Pursue an Eligible Activity

APHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the APHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

5.14.2 Seeking Work

APHA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the APHA.

5.14.3 Furthering Education

APHA Policy

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

5.14.4 Being Gainfully Employed

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

APHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

5.14.5 Earned Income Limit on Childcare Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be

necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

APHA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the APHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

5.14.6 Eligible Childcare Expenses

APHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the APHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

5.14.7 Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

APHA Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time.

For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the APHA will use the schedule of childcare costs from the local welfare agency. Families may present, and the APHA will consider, justification for costs that exceed typical costs in the area.

5.15 MINIMUM RENT

APHA Policy

The minimum rent for this locality is $0.

5.16 UTILITY REIMBURSEMENT

APHA Policy

The APHA will make utility reimbursements to the family. The APHA will use the appropriate utility allowance for the family for the lesser of the size of the actual dwelling unit leased by the family or the voucher size issued under the APHA's occupancy standards.

5.17 UTILITY ALLOWANCES

APHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination effective after the allowance is adopted.

Chapter 6

VERIFICATIONS

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, 24 CFR 5.216 Notice PIH 2012-19, and 2016-05]

The APHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance.

The APHA will follow the verification guidance provided by HUD. This chapter describes supplementary APHA policies.

6.1 FAMILY CONSENT TO RELEASE OF INFORMATION

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

All adult applicants and participants must sign form HUD-9886, Authorization for Release of Information, and APHA form HCV-1, Authorization for Release of Information. Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

If any family member who is required to sign a consent form fails to do so, the APHA will deny admission to applicants and terminate assistance to participants.

6.2 OVERVIEW OF VERIFICATION REQUIREMENTS

6.2.1 Verification Hierarchy

APHA Policy

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

Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system

Up-front Income Verification (UIV) using a non-HUD system

Written Third-party Verification (may be provided by applicant or participant)

Written Third-party Verification Form

Oral Third-party Verification

Tenant Declaration/Self-Certification

6.2.2 Requirements for Acceptable Documents

APHA Policy

Any documents used for verification should be the original (not photocopies) and should be dated within 60 calendar days of the date they are provided to the APHA. The documents must not be damaged, altered or in any way illegible. APHA will copy the original document(s) for the tenant file. For documents that are not to be copied, the APHA will notate the applicable content of the document that is required for HCVP eligibility purposes.

Verifications are valid 120 days from the date of receipt by the APHA, not the effective date of the 50058. The information therein and obtained for reexamination must not be more than 120 days from the effective date of the 50058. The APHA will utilize information outside the 120 day range if the information will/has not changed (e.g. birth certificate) and/or the information represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the APHA would accept the most recent report.

Print-outs from web pages viewed by APHA staff are considered original documents.

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

6.3 UP-FRONT INCOME VERIFICATION (UIV)

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

APHA Policy

The APHA will use the following UIV resources during the admission and reexamination process:

- HUD's EIV system – used in entirety
- Arizona Department of Economic Security (Family Assistance Administration, Unemployment Insurance Administration, etc.)
- The Work Number
- Other resources that become available to the APHA

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until the APHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process.

6.3.1 Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security, and SSI benefits for participant families. HUD requires the APHA to use the EIV system in its entirety. The following policies will apply when the APHA has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

6.3.1-1 EIV Income Reports

APHA Policy

The APHA will obtain income reports for annual reexaminations. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income and to meet the regulatory requirement for third party verification. Policies for resolving discrepancies between EIV reports and family-provided information are described in Chapter 5.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits.

For each interim reexamination (Form HUD-50058) of family income and composition, the PHA is required to have the following documentation in the tenant file:

- **EIV Individual Control Number (ICN) page** when there is **no** household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report.
- **EIV Income Report** when there **is** an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report.

For each annual reexamination of family income and composition, the PHA is required to have the following documentation in the tenant file:

- **No Dispute of EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and if necessary (as determined by the PHA), traditional third party verification form(s).
- **Disputed EIV Information:** EIV Income Report, current acceptable tenant provided documentation, and/or traditional third party verification form(s) for disputed information.

- **Tenant-reported income not verifiable through EIV system:** Current tenant-provided documents, and ***if necessary*** (as determined by the PHA), traditional third party verification form(s).

EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in the participant files with the applicable annual or interim reexamination documents.

When the APHA determines through income reports and third party verification that a family has concealed or under-reported income, corrective action will be taken. Any amount owed to the APHA as a result of a retroactive increase, must be repaid. If the participant is unable to repay the debt within 30 days, the APHA may offer a repayment agreement in accordance with policies described in Chapter 12.

In accordance with 24 CFR 5.236(b)(2)(3), PHAs are required to compare the information on the EIV report with the family-reported information. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference in the reported income information, the PHA is required to take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the PHA is required to request from the third party source, any information necessary to resolve the income discrepancy; and
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively; and
- Take any other appropriate action as directed by HUD or the PHA's administrative policies.

*The PHA is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

6.3.1-2 EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

<u>APHA Policy</u>

The APHA will identify participants whose identity verification has failed as part of the annual reexamination process.

The APHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the APHA determines that discrepancies exist, the errors will be corrected promptly.

6.4 THIRD-PARTY WRITTEN AND ORAL VERIFICATION

6.4.1 Written Third-Party Verification

APHA Policy

Third-party documents provided by the family must be dated within HUD guidelines and in accordance with Paragraph 6.2.2 above. If the APHA determines that third-party documents provided by the family are not acceptable, the APHA will explain the reason to the family and request additional documentation.

6.4.2 Written Third-Party Verification Form

This form of verification is mandatory when the family cannot provide acceptable documentation or when there appears to be unreported income and other forms of verification are not available.

APHA Policy

The APHA will send third-party verification forms directly to the third party. When other third-party verification documents are unavailable or are rejected by the APHA.

6.4.3 Oral Third-Party Verification

APHA Policy

When any source responds verbally to a written request for verification the APHA will accept the verbal response but will also request that the source complete and return any verification forms that were provided. APHA staff will record the name and title of the person contacted, date and time of the conversation (or attempts), telephone number, and the facts provided.

6.5 WHEN THIRD-PARTY VERIFICATION IS NOT REQUIRED

6.5.1 Assets

The APHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

6.5.2 Income, Asset and Expense Sources

The APHA will determine when/if outside third-party verification is required and/or when original tenant provided documents will meet HUD's requirements for third-party verification (e.g. 4-6 current paycheck stubs with the current EIV Income Report). Lower forms of verification will only be used in accordance with HUD guidelines. The applicant/tenant file must be adequately documented to support all verifications.

APHA Policy

Third-party verification may not be required when there is a service charge for verifying an asset or expense. The APHA will document in the participant file the reason that the third-party verification was not available.

If the family and/or APHA cannot obtain adequate verification, the APHA may pay the service charge required to obtain verification. If it is not cost effective, a lower form of verification will be used. The cost of verification will not be passed on to the family.

6.6 REVIEW OF DOCUMENTS AS VERIFICATION

APHA Policy

In accordance with HUD guidelines, the use/review of some unaltered/original tenant-provided documents will suffice as third-party verification.

The APHA may also review documents when necessary to help clarify information provided by third parties. In such cases, the APHA will document in the file how the APHA arrived at a conclusion about the income or expense to include in its calculations.

6.7 SELF-CERTIFICATION

APHA Policy

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

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

The self-certification must be made in a format acceptable to the APHA and must be signed by the family member whose information or status is being verified.

6.8 VERIFICATION OF LEGAL IDENTITY

APHA Policy

The APHA requires families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Birth certificate	Birth certificate
Naturalization papers	Adoption papers
Church issued baptismal certificate	Custody agreement
DMV Identification Card	Health & Human Services ID
US military discharge (DD214)	Certified School records
US Passport	US Passport
Current employer identification card	

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

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

Legal identity will be verified on an as needed basis.

6.9 SOCIAL SECURITY NUMBERS [24 CFR 5.216, HUD Notice PIH 2016-05]

All applicant and tenant household members must disclose and provide verification of the complete and accurate SSN assigned to them except for those individuals who do not contend eligible immigration status or tenants who were age 62 or older as of January 31, 2010, and whose initial determination of eligibility was begun before January 31, 2010. This paragraph explains the requirements and responsibilities of applicants or tenants to supply owners with this information, the responsibility of owners to obtain this information, and the consequences for failure to provide the information.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The APHA must accept the following documentation as acceptable evidence of the social security number:

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

The APHA will only reject documentation of an applicant or participant's Social Security number if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

APHA Policy

Applicants. An applicant family lacking the necessary documentation to verify the *assigned* Social Security Number (SSN) of a family member under the age of 6 years will be a 90-day period to obtain the necessary documentation to verify the SSN. An extension of one additional 90-day period will be granted if the APHA determines that the applicant family's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the family. The APHA must deny the eligibility of an assistance applicant if s/he (including each member of the household required to disclose his/her SSN) does not disclose a SSN and/or provide documentation of such SSN. However, if the family is otherwise eligible to participate in the program, the family may maintain his/her position on the waiting list for a period of 180 days. If all household members have not disclosed their SSN at the time a unit becomes available, the APHA must offer the available unit to the next eligible applicant family on the waiting list.

Participants. The APHA must terminate the assistance of Section 8 program participants (the entire household) and terminate the tenancy of Public Housing participants (the entire household) if s/he (including each member of the household required to disclose his/her SSN) does not disclose his/her SSN and provide the required documentation. However, if the family is otherwise eligible for continued assistance or tenancy in the program, the APHA, will defer the family's termination and provide the family an opportunity to comply with the requirement within a period **not to exceed** 90 calendar days from the date the APHA determined the family noncompliant with the SSN disclosure and documentation requirement, only if the APHA determines:

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

If the family is unable to comply with the requirements by the specified deadline, the APHA must terminate the entire family's tenancy or assistance, or both. The APHA must deny admission or terminate the family's tenancy or assistance, or both, if the family submits falsified SSN documentation.

Addition of a New Household Member. When a participant requests to add a new household member, who is at least six year of age **or** under the age of six

and **has** an SSA assigned SSN, to the family, the participant must disclose the SSA-assigned SSN and provide the APHA with the required documentation at the time of such request, or at the time of processing the interim or annual reexamination of family income and/or composition. If the family is unable to provide the required documentation of the SSN, the APHA shall not add the new household member to the family composition until the family provides such documentation. The APHA is not authorized to generate an ALT ID for the affected household member.

When a participant requests to add a new household member, who is under the age of six and **does not have** an SSA-assigned SSN, the participant must disclose the SSA-assigned SSN and provide the PHA with the documentation within 90 calendar days of the child being added to the household.

If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the APHA is required to grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, **only if** the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

The child is to be included as part of the assisted household and is entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. The PHA is required to generate an ALT ID. Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the APHA **must** terminate the entire family's tenancy or assistance, or both.

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

APHA Policy

APHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers and
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder.

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

APHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, APHA will no longer require documentation as evidence of social security numbers; however APHA will keep documentation previously submitted by the tenant.

6.10 AGE DOCUMENTATION

Age must be verified only once during continuously assisted occupancy and only when needed to make a determination of level of assistance.

APHA Policy

An original birth certificate or passport is the preferred documentation of age. If an official record of birth or evidence of social security retirement benefits cannot be provided, the family must submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded).

6.11 FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

APHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. As applicable, family composition will be verified using one or more of the following items from the HUD HCV Guidebook, Page 5-50: Income tax returns, school records, marriage certificates, birth certificates, divorce actions, Veterans Administration (VA) records, and support payment records. Remaining means of verification, in accordance with HUD guidance, will be used as necessary.

6.11.1 Marriage

APHA Policy

A marriage will only be verified to the extent necessary to determine a family's eligibility and level of assistance. The Arizona Revised Statute Title 25 has no provisions for common law marriage in the state of Arizona. The state of Arizona *may* recognize a common law marriage from another state.

As applicable, family composition will be verified using one or more of the following items from the HUD HCV Guidebook, Page 5-50: Income tax returns, school records, marriage certificates, birth certificates, divorce actions, Veterans Administration (VA) records, and support payment records. Remaining means of verification, in accordance with HUD guidance, will be used as necessary.

6.11.2 Separation or Divorce

APHA Policy

A separation or divorce will only be verified to the extent necessary to determine a family's eligibility and level of assistance. A copy of a divorce decree, executed by the appropriate parties is required to document that a couple is divorced. A copy of a court-ordered maintenance or other court record is required to document a separation. If no court document is available, documentation from a community-based agency will be accepted. As applicable, remaining means of verification, in accordance with HUD guidance will be used as necessary.

6.11.3 Absence of Adult Member

APHA Policy

If an adult member of the household, who also provided income to the household, is reported to be permanently absent or no longer a member of the household and no longer providing any support to the family, the family must provide evidence to support that the person is no longer residing in the unit before the income and tenant rent will be adjusted. Documentation may include a lease or utility bill in the former resident's name and for their new address.

6.11.4 Foster Children and Foster Adults

APHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

6.12 STUDENT STATUS VERIFICATION

APHA Policy

The APHA requires families to provide information for all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time or part-time student status for an adult other than the head, spouse, or co-head.

The family reports childcare expenses to enable a family member to further his or her education.

The family includes a student enrolled in an *institution of higher education.*

6.12.1 Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

APHA Policy

The APHA will determine whether the student is exempt from HUD restrictions on HCV assistance in accordance with HUD guidelines. Please see Chapter 3, Paragraph 3.4 for further information.

6.12.2 Independent Student

APHA Policy

The APHA will verify a student's independence from his/her parents in accordance with HUD guidelines. Please see Chapter 3, Paragraph 3.4 for further information.

6.13 DISABILITY DOCUMENTATION

The APHA must verify the existence of a disability to allow certain income disallowances and deductions from income but cannot inquire about the nature or extent of a person's disability. The APHA may not inquire about a person's diagnosis, details of treatment for a disability, or medical condition. If the APHA receives a verification document that provides this information, the information should be redacted or destroyed. Under no circumstances will the APHA request a participant's medical record(s).

6.13.1 Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for qualifying for waiting list preferences or certain income disallowances and deductions.

APHA Policy

For family members claiming disability who receive disability benefits from the SSA, the APHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If such documentation is not available, the APHA may request a current SSA benefit verification letter from each family member claiming disability status.

Note: Family members may request a benefit verification letter by calling the SSA at 800-772-1213 or by requesting it from www.ssa.gov.

6.13.2 Family Members Not Receiving SSA Disability Benefits

APHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, appropriate verification in accordance with HUD guidelines will be required from a recognized medical professional such as a physician, psychiatrist, or other medical practitioner or health care provider, third-party verification that the family member meets the HUD definition of disability.

If there are any changes in a family member's disability status, the family must report this/these changes (See Report Changes Form) to the APHA and if applicable, will be subject to APHA verification.

6.14 CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member.

APHA Policy

Family members who claim U.S. citizenship or national status must also provide appropriate verification. Please see Chapter 3, Paragraphs 3.0, 3.2.1, and 3.2.2 for further information.

6.14.1 Documents Required for Eligible Immigrants

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals. The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Refer to the Housing Choice Voucher Program Guidebook for a list of acceptable documents.

6.14.2 Verification

For family members age 62 or older who claim to be eligible immigrants, proof of age is the only verification required. Please see Chapter 3, Paragraphs 3.0, 3.2.1, 3.2.2, and 3.3 for further information.

For family members under the age of 62 who claim to be eligible immigrants, the APHA must verify immigration status with the Department of Homeland Security, SAVE Program.

6.15 VERIFICATION OF PREFERENCE STATUS

APHA Policy

The APHA will accept original documents provided by an applicant to verify preference status. The APHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The APHA will verify this preference using the APHA termination records.

6.16 VERIFYING INCOME AND ASSETS

6.16.1 Tips

APHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

6.16.2 Business and Self-Employment Income

APHA Policy

Business owners and self-employed persons must provide:

> An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
>
> All schedules completed for filing federal and local taxes in the preceding year.
>
> If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The APHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the APHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the APHA will accept the family member's certified estimate of income and schedule an

interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the APHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

6.16.3 Periodic Payments and Payments in Lieu of Earnings

APHA Policy

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the APHA will request a current SSA benefit verification letter from each family member that receives social security benefits.

To verify the SS/SSI benefits of *participants*, the APHA will obtain information about SS/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems, each family member that receives SSA benefits must provide a recent benefit verification letter.

6.16.4 Alimony or Child Support

APHA Policy

If the family declares that it is eligible to receive alimony or child support payments, verification will be sought in the following order.

If payments are made through a state or local entity, the APHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

6.16.5 Assets and Income from Assets

APHA Policy

The APHA will verify the value of assets disposed of only if:

The APHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

6.16.6 Net Income from Rental Property

APHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the APHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to

support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

6.16.7 Retirement Accounts

APHA Policy

When third-party verification is not available, the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the APHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the APHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the APHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

6.16.8 Income from Excluded Sources

The APHA must obtain verification for income exclusions only if, without verification, the APHA would not be able to determine whether the income is to be excluded.

6.16.9 Zero Annual Income Status

APHA Policy

The APHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero or negligible annual income. The participant family will be required to submit an Income Questionnaire quarterly or as requested.

6.16.10 Student Financial Assistance

APHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income, the APHA will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

The APHA will request written verification from the institution of higher education regarding the student's tuition, mandatory fees, and charges amounts.

6.16.11 Parental Income of Students

This provision is limited to students who are seeking or receiving assistance on their own, separately from their parents.

APHA Policy

Please see Chapter 3, Paragraphs 3.4 for further information.

6.17 VERIFYING DEDUCTIONS

6.17.1 Medical Expense Deduction

The APHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Amount of Expense

APHA Policy

The APHA will verify family paid out-of-pocket medical expenses in accordance with HUD guidelines.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible.

If outside third-party is not possible, copies of paid receipts/printouts or receipts with associated cancelled checks used to make medical expense payments.

When anticipated costs are related to on-going payment of medical bills incurred in past years, the APHA will verify:

The anticipated repayment schedule and monthly payments or total payments that are being paid by the family out-of-pocket.

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

6.17.2 Disability Assistance Expenses

The APHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities.

- The expense permits a family member, or members, to work.
- The expense is not reimbursed from another source.

6.17.2-1 Attendant Care

APHA Policy

The APHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or paid receipts from care source

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

6.17.2-2 Auxiliary Apparatus

APHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

6.17.2-3 Family Member(s) Permitted to Work

The APHA must verify that the expenses claimed actually enable a family member, or members (including the person with disabilities), to work.

APHA Policy

The APHA will seek third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work.

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability

assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

6.17.2-4 Unreimbursed Expenses

APHA Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

6.17.3 Childcare Expenses

The APHA must verify that:

- The child is eligible for care.
- The costs and that the costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

6.17.3-1 Unreimbursed Expense

APHA Policy

The childcare provider will be asked to certify that, to the best of the provider's knowledge, the childcare expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

6.17.3-2 Pursuing an Eligible Activity

The APHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

APHA Policy

The APHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work: Whenever possible the APHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or

unemployment). In such cases, the APHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the APHA any reports provided to the other agency.

In the event third-party verification is not available, the APHA will provide the family with a form on which the family member must record job search efforts. The APHA will review the information at each subsequent reexamination for which this deduction is claimed.

Furthering Education: The APHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment: The APHA will seek verification from the employer of the work schedule of the person who is permitted to work by the childcare.

In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

6.17.3-3 Allowable Childcare

APHA Policy

The APHA will verify that the type of childcare selected by the family is allowable.

The APHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The APHA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

6.17.3-4 Reasonable Childcare Expenses

APHA Policy

Costs will be appropriately verified.

If the family presents a justification for costs that exceed typical costs in the area, the APHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Chapter 7

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

7.1 OWNER AND FAMILY RESPONSIBILITIES

7.1.1 Owner Responsibilities

The owner is responsible for all Housing Quality Standards (HQS) violations not listed as a family responsibility even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

7.1.2 Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. *Normal wear and tear* is defined as items that could not be charged against the tenant's security deposit under state law or court practice.

7.2 VIOLATION OF HQS SPACE STANDARDS

If the APHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the APHA must issue the family a new voucher and the family must try to find an acceptable unit as soon as possible.

7.3 HQS INSPECTIONS

The APHA conducts several types of inspections as needed. The APHA may contract with a separate entity for HQS inspections. References to the APHA in relation to inspection performance include the contracted entity, if applicable.

- *Initial Inspections*. The APHA conducts initial inspections in response to a request from a family to approve a unit. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections*. HUD requires the APHA to inspect each unit under lease at least annually to confirm that the unit still meets HQS.

- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party if problems are identified between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that all inspectors are enforcing HQS correctly and uniformly.

7.3.1 Notice and Scheduling

The family must allow the APHA to inspect the unit at reasonable times with reasonable notice.

APHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Generally, inspections will be conducted on business days only. In the case of a life threatening emergency, the APHA will give as much notice as possible given the nature of the emergency.

7.3.2 Owner and Family Inspection Attendance

APHA Policy

At initial inspection of a vacant unit, the APHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

For all other inspections, an adult family member or the owner or owner’s representative must be present for the inspection.

7.4 INITIAL HQS INSPECTION

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. The APHA must complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA).

APHA Policy

The APHA will perform only one initial HQS inspection unless the unit selected fails the initial inspection. See Paragraph 7.4.1 for further information. Once a unit passes initial inspection, the participant is expected to move-in and reside in the unit for the initial term of the lease (generally 12 months).

The APHA may approve additional initial inspections as a request for reasonable accommodation for a person with disabilities or for other good cause.

These limitations apply to all APHA participants and portability participants.

Portability participants: Participants exercising portability to move to Yavapai County from another HA must attend a briefing with APHA staff before a Request for Tenancy Approval will be accepted and a HQS inspection ordered.

See also Chapter 8 for additional HQS standards applicable to Special Housing Types.

7.4.1 Inspection Results and Re-inspections

APHA Policy

If a unit fails an initial inspection, the owner determines whether to repair the failed items. The participant may decide to wait for the repairs and re-inspection or may start searching for another unit. The participant or owner may contact the APHA for a re-inspection after repairs are completed. The owner will be required to confirm completion of repairs. *If the unit fails two initial HQS inspections, the participant must locate another unit.*

The APHA may agree to conduct a second re-inspection, for good cause, at the request of the family and owner. Following a failed re-inspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they are unable to locate another suitable unit. The owner will be made aware that the actual cost for this second re-inspection may be charged to him/her if the owner notifies the APHA that repair(s) have been made but the deficiencies have not been corrected.

No HAP Contract will be executed until the unit meets HQS requirements.

7.4.2 Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

APHA Policy

If utility service is not available for testing at the time of the initial inspection, the APHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. The APHA will re-inspect the unit to confirm that utilities are operational before the APHA executes the HAP contract.

7.4.3 Appliances

APHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the APHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the APHA. The APHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

7.5 ANNUAL HQS INSPECTIONS

Each unit under HAP contract must have an annual inspection within 365 days of the last inspection.

APHA Policy

Annual inspections will be conducted within 365 days of the last inspection date (the date the unit was last visited i.e., the inspection date if the unit passed, the re-inspection date if the unit failed the first inspection). Participants and owners/landlords will be notified by mail of the scheduled date and time.

If the family cannot be present for the appointment, they must reschedule the inspection or make arrangements allowing the inspector access to the unit. Missed inspections are considered *failed* inspections.

7.6 MISSED INSPECTIONS

APHA Policy

If a participant misses the first scheduled inspection, the inspection will be rescheduled one time only. If the participant misses the second scheduled inspection, their participation in the HCVP will be terminated.

If the inspection is completed on the second inspection date and the unit fails, the tenant and owner will have the remainder of the initial 30-day period to make repairs and schedule a re-inspection. If the unit fails the re-inspection, rental assistance will be terminated if the tenant is at fault or the HAP will be abated if the owner is at fault.

Example: 7/1/2011 – 1st scheduled inspection - Fail (participant not home)

7/10/2011 – 2nd scheduled inspection – Fail (unit fails for electrical problems)

Repairs must be completed and a final inspection scheduled by 7/31/2011 (30 days from the first scheduled inspection date). If the unit fails, rental assistance will be terminated if the participant is at fault or the HAP will be abated if the owner is at fault.

7.7 FAILED INSPECTIONS

The owner and the family will be notified in writing of all failed inspections. The notification will include the date of the re-inspection. The notice will also include the date by when APHA may abate the HAP if the failed items have not been corrected or if the re-inspection is not performed within the required 30 days.

When an inspection identifies HQS failures, the APHA will determine (1) whether or not the failure is a life threatening condition, and (2) whether the family or owner is responsible.

If the participant is responsible for two failed inspections, their participation in the HCVP will be terminated (except as described in Section 7.6).

Rent increases will not be approved until failed items identified in the most recent HQS inspection have been corrected.

7.7.1 Time Allowed for Corrections/Repairs

APHA Policy

- Emergency repair items must be mitigated within 24 hours. A re-inspection is required to pass the unit.
- Utilities shut off, repair of refrigerators, range and oven, or a major plumbing fixture supplied by the owner, which will seriously affect the health and safety of the family must be mitigated within 72 hours. A re-inspection is required to pass the unit.
- Non-emergency items must be completed within 30 days of the initial inspection. A re-inspection or certification is required to pass the unit.

7.7.2 Re-inspection and Certification Requirements

APHA Policy

If a unit fails an inspection, another inspection may be required or the owner and participant may be able to certify as to the repairs completed. The inspector will make the determination based on the guidance provided in this section.

Re-inspection Required

- Emergency Fail Items
- Items that usually require professional repair, such as:

  Natural Gas Problems

  Sewer Problems

  Water – Potability Concerns

  Mobile Tie-downs

  Electrical Hazards

  Heating Equipment

  Water Heater

  Structural Problems

  Severe Plumbing Problems
- Any fail item NOT included in Section 7.7.3, Certification of Failed Items.

7.7.3. Certification of Failed Items

APHA Policy

If the unit fails for any of the items listed below, the owner and participant may certify that repairs have been completed or the item corrected. The certifications must be postmarked or faxed within 30 days of the inspection to the APHA.

- Window Lock
- Broken Window
- Lifted Carpet/Vinyl
- Bathtub Caulk/Mold
- Slow Drips
- Open Socket (needs light bulb)
- Electrical Outlet Face Plate
- Missing/Cracked Light Fixture
- Running Water (toilet, sink, drain)
- Dishwasher problems

7.7.4 Extensions

At the sole discretion of the APHA, extensions of up to 30 days may be granted if the owner has made a good faith effort to initiate repairs. If repairs are not completed within 60 days after the initial inspection date, the APHA will abate the HAP and cancel the HAP Contract for owner noncompliance. Appropriate extensions will be granted if a severe weather condition exists for such items as exterior painting and outside concrete work for porches, steps, and sidewalks.

7.7.5 Re-inspections

APHA Policy

The APHA will conduct a re-inspection after the corrective period or any APHA approved extension.

The family and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies are not corrected by the time of the re-inspection, the APHA will send a notice of abatement to the owner abating payment as of the first of the month following the expiration of the APHA specified correction period (including any extension), or in the case of family caused violations, a notice of termination to the family.

If the APHA is unable to gain entry to the unit to conduct the scheduled re-inspection, the APHA will consider the family to have violated its obligation to make the unit available for inspection and may terminate the family's assistance.

7.8 ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the APHA must take prompt and vigorous action to enforce the owner obligations.

7.8.1 HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified, the APHA will abate housing assistance payments (refer to Section 10.7 of the *Housing Choice Voucher Program Guidebook*). No retroactive payments will be made to the owner for the period of time the HAP was abated. Owner HAP is not abated because of HQS failures that are the family's responsibility.

APHA Policy

The APHA will make all HAP abatements effective the first of the month following the expiration of the APHA specified correction period (including any extension).

The APHA will inspect abated units within 10 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

7.8.2 HAP Contract Termination

APHA Policy

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies the APHA before the termination date of the HAP contract, the APHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit, and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the APHA is 30 days.

7.9 ENFORCING FAMILY COMPLIANCE WITH HQS

If the family fails to correct a violation for which they are responsible, within the period allowed by the APHA (and any extensions), the APHA will terminate the family's assistance.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

7.10 LIFE THREATENING CONDITIONS

The APHA has defined life threatening conditions and will notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of notification.

APHA Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire (Issues that present an immediate danger of shock or fire, we look for things like, crackling sounds, exposed wiring, black burn marks, frayed wiring, overloaded circuits)
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

If an owner fails to correct life-threatening conditions as required by the APHA, the housing assistance payment will be abated and the HAP contract will be terminated.

If a family fails to correct a family-caused life-threatening condition as required by the APHA, the APHA may terminate the family's assistance.

The owner will be required to repair an inoperable smoke detector unless the APHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

7.11 RENT REASONABLENESS

No HAP contract can be approved until the APHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises.

<u>APHA Policy</u>

The APHA will notify the owner of the rent the APHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The APHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations.

The owner must submit any additional information within 5 business days of the APHA's request for information or the owner's request to submit information.

7.11.1 Owner-Initiated Rent Determinations

The APHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The APHA may assist the family with the negotiations upon request. At initial occupancy, the APHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

APHA Policy

After the initial occupancy period, the owner may request one rent increase per year in accordance with the owner's lease. For rent increase requests after initial lease-up, the APHA may ask owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises, the APHA will consider unit size and length of tenancy in the other units. The owner will be notified of the determination in writing.

Rent adjustments will be effective the first of the month following 60 days after the APHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

7.11.2 PHA- and HUD-Initiated Rent Reasonableness Determinations

The APHA must determine rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the APHA to make a determination at any other time and the APHA may decide that a new determination of rent reasonableness is needed at any time.

APHA Policy

In addition to the instances described above, the APHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the APHA determines that the initial rent reasonableness determination was in error or (2) the APHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

7.11.3 Rent Reasonableness Methodology

APHA Policy

The APHA will verify rent reasonableness through www.GoSection8.com and the www.socialserve.com website and/or owner provided information when applicable.

Chapter 8

SPECIAL HOUSING TYPES

The APHA allows a family to use any of the special housing types discussed in this chapter. Allowed special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, and manufactured homes where the family owns the home and leases the space.

8.1 SINGLE ROOM OCCUPANCY

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

8.1.1 Payment Standard, Utility Allowance, and HAP Calculation

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the APHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

8.1.2 Housing Quality Standards (HQS)

Standard HQS requirements to SRO housing except as modified below.

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

  Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].

- *Sanitary Facilities: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.*
- *Space and Security: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.*

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

8.2 CONGREGATE HOUSING

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the APHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The APHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

8.2.1 Payment Standard, Utility Allowance, and HAP Calculation

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the APHA must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the APHA must use the 1-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

8.2.2 Housing Quality Standards (HQS)

Standard HQS requirements apply to congregate housing except for the requirements stated below.

> Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.
>
> The housing quality standards applicable to lead-based paint do not apply.

8.3 GROUP HOME

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the APHA, a live-in aide may live in the group home with a person with disabilities. The APHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

8.3.1 Payment Standard, Utility Allowance, and HAP Calculation

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the APHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the APHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

8.3.2 Housing Quality Standards (HQS)

Standard HQS requirements apply to group homes except for the requirements stated below.

- *Sanitary Facilities*: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service*: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups
  - Sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Vermin or rodent infestation, and
  - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

8.4 SHARED HOUSING

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the APHA, a live-in aide may reside with the family to care for a person with disabilities. The APHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

8.4.1 Payment Standard, Utility Allowance and HAP Calculation

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the shared housing unit size.

The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the pro-rata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the APHA should consider whether sanitary and food preparation areas are private or shared.

8.4.2 Housing Quality Standards (HQS)

The AAPHA will not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

Standard HQS requirements apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of

bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

8.5 MANUFACTURED HOMES

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the APHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. APHAs may, but are not required to, provide assistance for such families.

8.5.1 Special Policies For Manufactured Home Owners Who Lease A Space

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

8.5.2 Payment Standard, Utility Allowance and HAP Calculation

Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The APHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

The APHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the APHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The APHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

8.5.3 Housing Quality Standards

In addition to all standard HQS requirements, a manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

Chapter 9

OWNER PARTICIPATION AND GENERAL LEASING POLICIES

9.1 OWNER PARTICIPATION

The APHA will provide the kind of customer service that will encourage participating owners to remain active in the program.

APHA Policy

All APHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible to minimize vacancy losses for owners.

The APHA will provide owners with an Owner/Landlord Packet that explains the program, HUD and APHA policies and procedures, and includes required forms.

Owners of rental properties in Yavapai County are encouraged to list their properties on the GoSection8 and SocialServe websites. To assist applicants and participants in their search for a unit, the APHA will provide the website information as part of the briefing packet.

9.1.1 Legal Ownership

APHA Policy

The APHA will only enter into a contractual relationship with the legal owner of a qualified unit or the legal representative of the owner e.g., property management company.

9.1.2 Change in Ownership

APHA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program.

The APHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the APHA will inform the current owner in writing whether the HAP assignment is approved.

The new owner must provide a written certification to the APHA that includes:

A copy of the escrow statement or other document showing the transfer of title and recorded deed;

A copy of the owner's Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

The effective date of the HAP contract assignment;

A written agreement to comply with the terms of the HAP contract; and

Confirmation that the new owner is not a prohibited relative.

9.1.3 Owner Responsibilities

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the APHA information required under the HAP contract
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the APHA), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person.
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.
- The owner must inform the APHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.
- The owner must inform the APHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the APHA with a copy of such judgment or determination.
- After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the APHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform

the APHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

9.2 BREACH OF CONTRACT

APHA Policy

Before the APHA invokes a remedy against an owner, the APHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the APHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the APHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

9.3 TENANT SCREENING

The APHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. However, the APHA must provide the owner with the family's current and prior address (as shown in the APHA records); and the name and address (if known to the APHA) of the landlord at the family's current and prior address.

The APHA's policy on providing information to the owner must be included in the family's briefing packet.

APHA Policy

The APHA will not screen applicants for family behavior or suitability for tenancy.

The APHA will not provide additional screening information to the owner.

9.4 REQUESTING TENANCY APPROVAL

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request approval for the selected unit.

APHA Policy

The APHA will perform only one HQS inspection for new admission and portability participants unless the unit selected fails the initial inspection. These participants may not decline a unit that passes inspection unless approved by the APHA as a reasonable accommodation or for other good cause.

Both the family and the owner must sign the Request For Tenancy Approval (RFTA).

The owner may submit the RFTA on behalf of the family.

Completed RFTA must be submitted by e-mail, in-person, by mail, or by fax. The information will not be accepted over the phone.

The family may not submit, and the APHA will not process, more than one (1) RFTA per family at a time.

When the family submits the RFTA, the APHA will review the RFTA for completeness. Missing information may be obtained by phone. Missing documents will only be accepted by e-mail, in-person, by mail, or by fax.

Because of the time sensitive nature of the tenancy approval process, the APHA will attempt to communicate with the owner and family by phone, fax, or email.

9.5 DISAPPROVAL OF A TENANCY REQUEST

The APHA may disapprove a request for tenancy if the owner has committed any of a number of different actions. However, if the APHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units.

The APHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the APHA may deny approval of an assisted tenancy based on past behavior, conflict of interest, or other owner-related issues.

APHA Policy

The APHA will refuse to approve a request for tenancy if the APHA becomes aware that any of the following are true:

The owner has violated obligations under a HAP contract under Section 9 of the 1937 Act (42 U.S.C. 1437f);

The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The owner has engaged in any drug-related criminal activity or any violent criminal activity;

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 9 assistance or leased under any other federal housing program;

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 9 or any other federally assisted housing program for activity engaged in by the tenant, any member of the

household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the APHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

The owner has been non-responsive in the past, withholding or failing to provide requested information pertaining to participants or program requirements;

The owner has a history or practice of renting units that fail to meet state or local housing codes;

The owner has not paid state or local real estate taxes, fines, or assessment; or

The property is the subject of a foreclosure or notice of trustee sale.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the APHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the APHA may, on a case-by-case basis, choose to approve an owner.

9.6 LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the APHA is not a party to this contract.

The tenant must have legal capacity to enter into a lease under State and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

APHA Policy

The APHA will not review the owner's lease for compliance with state/local law.

The initial lease must be for a minimum of one-year unless an exception would be allowable under HUD regulations and it is approved by the APHA Administrator.

9.6.1 Lease Form and Tenancy Addendum

The Tenancy Addendum must be made a part of the owner's lease form. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the APHA. As a part of the lease, the tenant shall have

the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

APHA Policy

The APHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

The APHA does not review leases other than to ensure the effective date and term of the lease and to verify the contract rent.

9.6.2 Security Deposit

APHA Policy

The owner may collect the security deposit he determines is appropriate and allowable under state law.

9.6.3 Separate Non-Lease Agreements Between Owner and Tenant

Owners may *not* demand or accept any rent payment from the family in excess of the rent to the owner minus the APHA's housing assistance payments to the owner.

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

APHA Policy

Any items, appliances, or services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

9.7 TENANCY APPROVAL

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the APHA must promptly notify the family and owner whether the assisted tenancy is approved.

APHA Policy

The APHA will complete its determination within 15 business days of receiving all required information.

If the terms of the RFTA are changed for any reason, including but limited to negotiations with the APHA, correction may be faxed, mailed, or e-mailed to the APHA. Revisions may be done over the phone provided APHA staff note the name of the person authorizing the change, date, and the person's phone number.

If the APHA determines the tenancy cannot be approved, the owner and the family will be notified in writing or by phone and given the opportunity to address any reasons for disapproval. The APHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the APHA may attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9.8 HAP CONTRACT EXECUTION

The HAP contract is a written agreement between the APHA and the owner of the dwelling unit occupied by an assisted family. Under the HAP contract, the APHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

APHA Policy

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the APHA.

The owner and the APHA will execute the HAP contract. The APHA will ensure that the owner receives a copy of the executed HAP contract.

9.9 RENT INCREASES

APHA Policy

Owners may request one increase in rent per year after the initial term of the HAP contract. Owners must submit the request in writing at least 60 days before the proposed effective date of the increase.

APHA staff will determine if the rent increase is reasonable based on HUD guidance and the guidance for determining rent reasonableness in Section 7.1.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE, PORTABILITY, and EXPANDING HOUSING OPPORTUNITIES

10.1 MOVING WITH CONTINUED ASSISTANCE

HUD lists the VAWA statutory condition and five regulatory conditions in which an assisted family may move to a new unit with continued assistance.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease. If the family terminates the lease on notice to the owner, the family must give the APHA a copy of the notice at the same time.
- VAWA 2013 implemented several key changes related to housing protections for victims of domestic violence, dating violence, sexual assault, and stalking. (See HUD Notice PIH-2017-08) VAWA 2013 The APHA's Emergency Transfer Plan allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to make an emergency transfer under VAWA. The APHA does not own or manage any real property. The APHA does not provide VAWA protections for applicants. The APHA has not set a number or frequency that a family can request VAWA protections. Should a pattern emerge, the APHA may deny VAWA protections. Upon inference, review, and with provision of verification as applicable, the victim(s) and their family (as defined by the victim(s)), who are otherwise eligible for HCV assistance, will be immediately issued a voucher to seek suitable living arrangements. The APHA recommends, but does not require the use of the (Form HUD-5383) as each situation may vary. The APHA will hold VAWA communications (in any medium) with the strictest confidence and the information will not be included in the household's HCV file. The family will be required to seek suitable housing where the victim(s) and family deem safe. The APHA does not and will not convey the availability of alternative housing opportunities for victim(s) of VAWA. The APHA may provide a map of Yavapai County to illustrate the entire area covered by the APHA. See Paragraph 10.7 Expanding Housing Opportunities.
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family. (See *Restrictions on Elective Moves* for exceptions.)
- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family. The family must give the APHA a copy of any owner eviction notice.

- The APHA has terminated the HAP Contract for the family's unit for the owner's breach of contract.
- The APHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the APHA must issue the family a new voucher. If an acceptable unit is available for the family, the APHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the APHA gives notice to the owner.

10.2 MOVING DENIED

The APHA may deny a family permission to move under the conditions listed below.

10.2.1 Insufficient Funding

APHA Policy

The APHA will deny a family permission to move on grounds that the APHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the APHA; (b) the APHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the APHA can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to any moves including portability.

10.2.2 Restrictions on Elective Moves

APHA Policy

The APHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the APHA's jurisdiction or outside it under portability.

The APHA will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the APHA's jurisdiction. The APHA will perform only one HQS inspection for an elective move unless the unit selected fails the initial inspection. The APHA administrator may approve additional inspections as a reasonable accommodation or for other good cause.

Families with outstanding debts owed to the APHA or other housing agencies, or who are in violation of their family obligations, will not be allowed to move with assistance.

The APHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), to accommodate a change in family circumstances

(e.g., new employment, school attendance in a distant area), to address an emergency situation over which a family has no control, as a reasonable accommodation of a family member who is a person with disabilities, or if the landlord will not renew the lease through no fault of the family.

10.3 MOVING PROCESS

10.3.1 Voucher Issuance and Search for a Unit

APHA Policy

Participants may request a voucher to search for a unit after receiving approval from APHA staff. The voucher term will be approximately 4 months.

No briefing is required for families approved to move to a new unit in or out of the APHA's jurisdiction. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the APHA approves. Before the voucher expires, the participant must provide written notice to the APHA indicating they wish to remain in the current unit.

If a participant locates a unit and decides to move, he or she must notify the APHA and the owner 30-60 days before moving out of the old unit or terminating the lease. If the family wishes to move to a unit outside the APHA's jurisdiction under portability, the notice to the APHA must specify the area where the family wishes to move. The notices must be in writing.

10.3.2 Reexamination of Family Income and Composition

APHA Policy

For families approved to move to a new unit within the APHA's jurisdiction, the APHA will perform an interim reexamination to ensure a correct affordability determination. Earned income will be verified. Other income and allowances will remain as verified in the last annual recertification.

10.3.3 Housing Assistance Payments

When a family moves out of an assisted unit, the APHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

10.4 PORTABILITY – INITIAL PHA ROLE

10.4.1 Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the APHA's jurisdiction under portability. However, HUD gives the APHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding (see *Moving Denied*) and grounds for denial or termination of assistance.

APHA Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the APHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in the APHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

10.4.2 Participant Families

The Initial PHA cannot provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

APHA Policy

The APHA will determine whether a participant family may move out of the APHA's jurisdiction with continued assistance in accordance with HUD regulations and APHA policies. The APHA will notify the family of its determination in writing.

10.4.3 Reexamination of Family Income and Composition

APHA Policy

For a participant family approved to port out, the APHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

10.4.4 Voucher Issuance and Term

APHA Policy

For families approved to move under portability, the APHA will issue a new voucher within 10 business days of the APHA's approval to move.

The initial term of the voucher will be 4 months.

10.4.5 Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the APHA must promptly notify the receiving PHA to expect the family and must also advise the family how to contact and request assistance from the receiving PHA.

APHA Policy

Because the portability process is time-sensitive, the APHA will notify the receiving PHA by phone, fax, or e-mail to expect the family and ask for contact information for the staff person responsible for incoming portable families. The APHA will pass this information along to the family.

10.4.6 Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with a completed Part I
- A copy of the family's voucher
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058
- Copies of the income verifications backing up the form HUD-50058 including EIV information, if applicable

APHA Policy

In addition to these documents, the APHA will provide the following information, if available, to the receiving PHA:

Documentation of SSNs for all family members whose SSNs have not been verified through the EIV system

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit.

10.4.7 Initial Billing

APHA Policy

If the APHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving APHA by phone, fax, or e-mail regarding the participant's status.

No billing submitted by a receiving PHA will be denied without APHA Administrator approval.

10.5 PORTABILITY - RECEIVING PHA ROLE

The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program.

10.5.1 Initial Contact with Family

When a family moves into the APHA's jurisdiction under portability, the family is responsible for promptly contacting the APHA and complying with the APHA's procedures for incoming portable families.

If the voucher issued to the family by the initial PHA has expired, the APHA will not process the family's paperwork but instead refer the family back to the initial PHA.

10.5.2 Briefing

APHA Policy

The family must complete and submit the forms in the APHA Application and Briefing Packet. For additional information, please see Chapter 4.

The APHA will provide the family with a Briefing Packet and in the briefing oral, visual and written information will be communicated. Information about the APHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process will be communicated. Participants porting from another jurisdiction must personally attend the briefing unless a request for reasonable accommodation is approved. Participants must submit the required forms for verification of reasonable accommodation requests. Other requests to have the briefing conducted by phone must be submitted in writing and state the reason the family is unable to physically attend a briefing. Those participating in a briefing by phone and mail are responsible to ensure all forms are complete and correct and returned to the APHA promptly. The APHA will not accept a Request for Tenancy Approval until all requested information has been provided by the participant.

Any information that cannot be verified in accordance with HUD guidelines may result in termination of assistance.

10.5.3 Income Eligibility and Reexamination

APHA Policy

For any family moving into its jurisdiction under portability, the APHA will conduct a new reexamination of family income and composition. However, the APHA will not delay issuing the family a voucher for this reason.

Nor will the APHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the APHA cannot

otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the APHA will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

10.5.4 Voucher Issuance

APHA Policy

When a family ports into its jurisdiction, the APHA will issue the family a voucher based on the paperwork provided by the initial PHA and will update the family's information when verification has been completed.

10.5.5 Voucher Term

APHA Policy

To avoid late billing issues and because the APHA does not regularly absorb portables, the voucher issued by the APHA will expire on the same date as the voucher issued by the initial PHA.

If the APHA will absorb an incoming family, the family will receive the same voucher term as is given to APHA participants. (Note: start date is the date the voucher was issued by the initial PHA.)

10.5.6 Voucher Extension

APHA Policy

Families porting in to Yavapai County must contact the initial housing authority for an extension to their voucher. The initial housing authority must provide documentation of the extension approval to avoid late billing issues.

If an incoming family wishes to return to the initial PHA or wishes to search in another jurisdiction, the voucher of record is the voucher originally issued by the initial PHA. Any extensions of the initial PHA voucher to allow the family time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

10.5.7 Annual Reexamination

APHA Policy

The APHA will send a copy of the updated HUD-50058 to the initial PHA by regular mail at the same time the APHA and owner are notified of the reexamination results.

10.5.8 Denial or Termination of Assistance

APHA Policy

If the APHA elects to deny or terminate assistance for a portable family, staff will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld.

10.6 ABSORBING PORTABLE FAMILIES

Generally, the APHA will bill initial PHA's for the administration of portable families, preferring to issue APHA vouchers to applicants from the waiting list. However, the administrator may make exceptions and approve absorbing portable families if the initial PHA has funding concerns or for other good reason.

10.7 EXPANDING HOUSING OPPORTUNITIES

Persons assisted under the Housing Choice Voucher Program may submit a request to have the opportunity to move anywhere in the United States once the family has been determined eligible to participate in the program and has been issued a voucher. However, there must be an entity or housing authority operating a Housing Choice Voucher Program covering the area of the proposed unit and the voucher amount may not exceed the APHA payment standard requirements.

APHA Policy

The APHA consistently encourages participation by all owners, including those that are outside any areas of poverty or minority concentration. The APHA encourages applicants, current participants, all property owners/landlords to visit and use www.GoSection8.com and www.socialserve.com. These are nonprofit housing resources that are specifically designed to expand housing opportunities for applicants and owners.

Within the Briefing Packet and at anytime for convenience, the APHA provides a detailed map of Yavapai County clearly delineating areas of potential concentration.

The APHA encourages applicants/tenants to supply the full Landlord/Owner Information Packet to any property owner of their choosing. Additionally, the APHA will provide any owner that inquires, a full Landlord/Owner Information Packet.

The Briefing Packet also includes an explanation of how portability works, Yavapai County information and websites and a listing of all Public Housing Authorities in the state of Arizona with name, address, and telephone number according to www.hud.gov. The APHA documents these actions through the use of signed/dated Briefing Certification checklists that are maintained in the tenant files. The APHA continually analyzes any difficulties applicants may encounter through on-going communication while the applicant is searching for housing.

The APHA assists and facilitates effective communications with potential landlord/owners. The APHA considers whether an exception to the payment standard will be necessary to expand housing opportunities and we will seek HUD approval to increase the payment standard, if necessary. If anyone needs assistance contacting a Public Housing Authority or have difficulty finding housing in any area, an APHA staff member will be glad to assist you in facilitating communications.

Chapter 11

REEXAMINATIONS

11.1 ANNUAL REEXAMINATIONS

The APHA must conduct a reexamination of family income and composition at least annually (within a 12-month period). This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated.

11.1.1 Scheduling Annual Reexaminations

APHA Policy

The APHA will begin the annual reexamination process 120 days in advance of its scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

The APHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

11.1.2 Notice and Participation in the Annual Reexamination Process

The APHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the APHA.

APHA Policy

Families are required to participate in an annual reexamination interview, which must be attended by the head of household unless granted a reasonable accommodation. To request this reasonable accommodation, the APHA will verify from a qualified source that the participant is a person with a disability and the disability has a nexus or relates in a way that prevents attendance at the meeting. For information on how to request a reasonable accommodation, please refer to Chapter 1. Verifications must be received by the APHA for an exception at least 5 days prior to the meeting date. If the participant does not attend and has not been granted an exception, they will be required to meet with staff in the ADOH offices.

An advocate, interpreter, or other assistant may assist the family in the interview process. For more information regarding Limited English Proficiency (LEP), please refer to Chapter 2.

Generally, interviews will be scheduled at a location in Yavapai County. Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview. If the notice is returned with no forwarding address, APHA staff will initiate termination proceedings.

If a participant fails to attend the scheduled interview without APHA approval, staff will attempt to contact the participant and schedule an interview at ADOH. If the participant misses that appointment without APHA approval, assistance will be terminated.

An advocate, interpreter, or other assistant may assist the family in the interview process.

11.1.3 Conducting Annual Reexaminations

APHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment.

EIV and Fraud

During the reexamination process**,** the APHA will obtain Upfront Income Verification (UIV) and (EIV) and other verifications of data and identify any unreported or underreported income. For further information regarding UIV and EIV verifications and information, refer to Chapter 6.

If the reexamination discloses that the participant, at the time of admission or at any previous reexamination, made misrepresentations, the participant will be notified in writing of such misrepresentation. The participant will be required to repay the APHA for any overpayments made as a result of misrepresentation and/or may be processed for termination.

A family's continued need for an unoccupied bedroom must be verified every other year. For example, a disabled family may need an extra bedroom for medical equipment or auxiliary apparatus. The need for the extra bedroom must be verified every other year.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family does not provide the required documents or information within the required period, APHA will send a Final Notice allowing an additional 10 business days for a response. If the information is not provided by the Final Notice deadline, the family will be sent a notice of termination.

The APHA may check court, law enforcement, or other public databases as part of the annual recertification process to verify continued eligibility.

11.1.4 Determining Ongoing Eligibility of Certain Students

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential. See Chapter 3, Paragraph 3.4 for further information.

11.1.5 Effective Dates

APHA Policy

In general, an increase in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the APHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the APHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, increases in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the APHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the APHA.

If the family causes a delay in processing the annual reexamination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the APHA by the date specified and this delay prevents the APHA from completing the reexamination as scheduled.

11.2 INTERIM REEXAMINATIONS

Family circumstances may change between annual reexaminations. HUD and APHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the APHA must process interim reexaminations to reflect those changes. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted.

11.2.1 Unit Transfer

APHA Policy

For unit transfers, the APHA will conduct interim reexaminations to account for any changes in household income and ensure the unit is affordable. Earned income will be verified. Other income and allowances will remain as verified in the last annual recertification.

11.2.2 Changes in Family and Household Composition

APHA Policy

The APHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

The family must inform the APHA of the birth, adoption, court-awarded custody, and/or otherwise unofficial addition of a dependent (or child) within 10 business days.

11.2.2-1 New Family and Household Members Requiring Approval

With the exception of children who join the family because of birth, adoption, or court-awarded custody, and/or otherwise unofficial addition of a dependent, a family must request APHA approval to add a new family member or other household member (live-in aide or foster child).

When any new family member is added, the APHA must conduct an interim reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment.

If a change in family size causes a violation of Housing Quality Standards (HQS) space standard, the APHA must issue the family a new voucher, and the family and APHA must try to find an acceptable unit as soon as possible.

APHA Policy

Families must request APHA approval to add a new family member, live-in aide, foster child, or foster adult.

This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days, or 90 cumulative days, within a twelve-month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the APHA prior to the individual moving in the unit.

The APHA will not approve the addition of a new family or household member unless the individual meets the APHA’s eligibility criteria.

The APHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the APHA determines an individual meets the APHA’s eligibility criteria, the APHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If a participant requests a voucher to move to a larger unit to accommodate the addition of a family or household member, the added family member must move in to the larger unit no later than 30 days after the APHA has approved the individual. If the new family member is not living in the unit within 30 days of approval, the payment standard will be reduced to reflect the actual occupancy. The participant will receive a 30-day notice of their increased portion of the rent.

If the APHA determines that an individual does not meet the APHA’s eligibility criteria, the APHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

NOTE: VASH participants must first obtain approval from the VAMC to add a family or household member to their household.

11.2.2-2 Departure of a Family or Household Member

APHA Policy

If a household member moves from the unit, the family must inform the APHA in writing within 10 days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If the departing family member’s income was included as household income, documentation must be provided to verify the family member has moved from the household. Documentation must be such to show where the family member is residing. Documentation includes but is not limited to, a current lease, utility bills, or vehicle registration for the departing family member.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the APHA within 10 business days.

If the change in household composition results in the participant being over-housed,

the APHA will send written notification informing the family that APHA will reduce the payment standard at the next annual recertification. The APHA will issue a voucher if the family wishes to move to a unit meeting occupancy standards or the family may choose to stay in place and pay a greater portion of the rent.

11.2.3 Changes Affecting Income or Expenses

Interim reexaminations can be scheduled because the APHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the APHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

11.2.3-1 Method of Reporting

APHA Policy

The family must notify the APHA of changes in writing within 10 days.

Based on the type of change reported, the APHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the APHA. The time to submit may be extended for good cause with APHA approval. The APHA will accept required documentation by email, mail, by fax, or in person.

11.2.3-2 PHA-Initiated Interim Reexaminations

APHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the APHA. They are not scheduled because of changes reported by the family.

APHA Policy

The APHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the APHA will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period). If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the APHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the APHA will conduct an interim reexamination.

If the APHA discovers the participant has failed to report changes as required, the APHA will initiate an interim recertification and will implement rent changes as follows:

- An increase in TTP will be retroactive to the first of the month following the date the action occurred.
- A decrease in TTP will be implemented effective the first of the month following completion of the recertification.

The APHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate possible tenant fraud.

11.2.3-3 Family-Initiated Interim Reexaminations

APHA Policy

Families are required to report all increases in earned income, including new employment, within 10 days of the date the change takes effect.

The APHA will conduct interim reexaminations for families that qualify for the earned income disallowance (EID) for persons with disabilities in accordance with [24 CFR 5.617]. For qualified families, the APHA will perform the HUD-required verifications and grant the disallowances of increase in annual income in accordance with HUD guidelines.

An interim recertification for an *increase in household annual income* will be processed if:

- The family has a change in family composition resulting in an increase in household income; or
- The family's rent is currently based on zero, outside (monetary assistance) contribution income, non-wage income and/or unearned income and there is an increase in this type of income; or a family member becomes employed; or
- A family's income increases cumulatively by $200 or more per month ($200 cumulative including all changes in income since the effective date of the last certification); and the effective date of this change is 6 months or more from the family's annual recertification date.

11.2.4 Interim Recertification Effective Date

APHA Policy

The interim recertification resulting in increase in tenant rent will be effective on the first day of the month following 30 days from the effective date of the change. For example, an increase effective January 16th for a $200 change will result in a rent increase effective March 1st.

Interims for changes in family circumstance that result in a tenant rent decrease, will be processed as soon as possible. The effective date of the reduced tenant

rent will depend on when the change was reported to the APHA (refer to Section 11-2.C).

If reported by the 10th of the month, the change will be effective the first day of the following month.

Example: a decrease in wages occurring on January 2nd and reported before January 10th will result in the rent decrease becoming effective February 1st.

Changes reported after the 10th of the month will result in the rent decrease becoming effective the first day of the second month immediately following the month in which the change occurs. Example: a change reported on January 25 will result in a rent decrease effective March 1.

However, if the APHA discovers the participant has failed to report changes as required, the APHA will initiate an interim recertification and will implement rent changes as follows:

An increase in TTP will be retroactive to the first of the month following the date the action occurred.

A decrease in TTP will be implemented effective the first of the month following completion of the recertification.

NOTE: If the new tenant rent is a reduction and a previous increase in tenant rent has not been applied (the rent based on the increase in income has not been paid at least one time), the change will be effective the first of the second month after the rent amount is determined.

If the tenant rent changes because of a family member moving out of the household, the change will be effective based on the date the APHA receives documentation to verify where the family member is residing (see above regarding information received before and after the 10th of the month).

11.3 NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

APHA Policy

The notice to the family will include the new family share of the rent, the new HAP, and the procedures for requesting an informal hearing.

11.4 DISCREPANCIES

During an annual or interim reexamination, the APHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the APHA may discover errors made by the APHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 14.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

12.1 TERMINATION OF ASSISTANCE

HUD regulations specify the reasons for which the APHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family.

HUD *requires* the APHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD *permits* the APHA to terminate assistance in other circumstances.

12.1.1 Family No Longer Requires Assistance [24 CFR 982.455]

As a family's income increases, the amount of subsidy goes down. If the amount of HCV assistance drops to zero and remains at zero for 180 consecutive calendar days (approximately 6 months) the family's assistance terminates automatically.

> APHA Policy
>
> If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to increase above zero, the family must notify the APHA of the changed circumstances and request an interim reexamination before the end of the 180-day period.

12.1.2 Family Chooses To Terminate Assistance

The family may ask that the APHA terminate the family's assistance at any time.

> APHA Policy
>
> The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head.

12.1.3 Mandatory Termination of Assistance

HUD requires the APHA to terminate assistance in the following circumstances.

12.1.3-1 Eviction [24 CFR 982.52(b)(2), 24 CFR 5.2005(c)(1)]

The APHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

For additional information on VAWA 2013 that is applicable to this program is found in **Chapter 3.**

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action.

APHA Policy

A family will be considered *evicted* if the APHA receives or is otherwise made aware that the family has received an eviction notice. The APHA will assess any/all available documentation to begin the termination of assistance process.

The APHA may terminate assistance or take any of the alternative measures described in this chapter. If an eviction is overturned and the resident has otherwise met the lease and tenancy requirements, the APHA may choose to reinstate assistance retroactive to the date terminated.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criteria to be used are whether the reason for the eviction was the fault of the tenant or guests.

12.1.3-2 Failure to Provide Consent

The APHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination.

12.1.3-3 Failure to Document Citizenship

The APHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the APHA, has knowingly permitted another individual who is not eligible for assistance to reside in the unit (on a permanent basis). For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

12.1.3-4 Failure to Disclose, Document, and Verify Social Security Numbers (SSN) [24 CFR 5.218(c), Notice PIH 2016-05]

The APHA must terminate assistance if a participant family fails to disclose and provide documentation of SSNs according to HUD requirements as described in **[24 CFR 5.218(c), Notice PIH 2016-05]**. For additional information on SSN disclosure, documentation, and verification; refer to Chapter 6.

12.1.4 Criminal Activity and Alcohol Abuse

NOTE: Termination of assistance under this section requires ADOH Director approval.

APHA Policy

If the APHA has reasonable cause to believe that any household member is currently engaged in, or has engaged in criminal activities and/or drug (legal and illegal drugs and/or other substances) use or abuse within the past (3) three years, the family's housing assistance will be terminated. The APHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or any individual.

In determining reasonable cause, the APHA will consider credible evidence, including but not limited to, law enforcement communications, record of court proceedings/actions, conviction, and/or eviction of household members related to the use of substances (legal and illegal drugs and/or other substances), criminal activities, and/or alcohol abuse. Refer also to Section 12.2, *Criteria for Deciding to Terminate Assistance*.

The APHA will also consider alternatives to termination and other factors. For example, if the APHA is able to verify that the household member who engaged in the criminal activity is no longer living in the household or, if drug related criminal activity, the household member is actively participating in or has successfully completed a supervised rehabilitation program, the APHA may, on a case-by-case basis, choose not to terminate assistance. On-going updates may be required. Refer also to Section 12.2, *Criteria for Deciding to Terminate Assistance.*

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

   According to HUD Memorandum dated February 10, 2011, Medical Marijuana Use In Public Housing and Housing Choice Voucher Programs: The Controlled Substances Act (CSA) lists marijuana as a Schedule I drug, a substance with a very high potential for abuse and no accepted medical use in the United States. Federal guidance does not require that the APHA terminate housing assistance for tenants who use marijuana for medical reasons in accordance with state law. However, any violation of HUD guidelines relating to the HCV program will be enforced and may result in termination of assistance and tenancy, or both.

   The APHA will decide whether to terminate housing benefits on grounds of use of medical marijuana on a case-by-case basis.

   In the event that the APHA becomes aware that a program participant uses marijuana even though such use is in accordance with Arizona law, the APHA may terminate housing assistance if it determines that such use relates to violations of HUD-HCV Housing program requirements, criminal

activity, presents a threat to the health or safety of others, is inconsistent with the right of others to quiet enjoyment of their homes or apartments, or opposed by the landlord.

Any use or possession of a Controlled Substance (e.g. marijuana), paraphernalia, or associated item or action that is not strictly within the limits of Arizona law shall be grounds for termination of housing benefits.

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

C. Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other individual.

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

E. Criminal activity including fraud, bribery or other corruption.

F. Intentional misrepresentation of information related to their housing application or benefits derived there from.

Mandatory Termination of Assistance

The APHA must terminate assistance for an assisted family if:

A. Any household member is subject to a lifetime registration requirement under a state sex offender registration program (denied for life).

B. Any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

12.1.5 Family Absence from the Unit

The family may be absent from the unit for brief periods.

However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days, for any reason. Absence in this context means that no member of the family is residing in the unit.

<u>APHA Policy</u>

The family must supply any information or certification requested by the APHA to verify that the family is living in the unit, or relating to family absence from the unit, including information regarding the purposes of family absences.

The family may be absent from the unit for up to 30 days. The family must request permission from the APHA, in writing, for absences exceeding 30 days. An authorized absence may not exceed 180 days. Any family absent for more than 180 days or absent for more than 30 days without authorization will be terminated from the program.

Authorized absences may include, but are not limited to:

- Prolonged hospitalization
- Absences beyond the control of the family (i.e., death in the family, other family member illness)
- Other absences that are deemed necessary by the APHA

12.1.6 Insufficient Funding

The APHA may terminate HAP contracts if the APHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for all of the families in the program.

APHA Policy

If the APHA determines there is a shortage of funding, prior to terminating any HAP contracts the APHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the APHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the APHA will inform the local HUD field office. The APHA will terminate the minimum number needed in order to reduce HAP costs to a level within the APHA's annual budget authority.

If the APHA must terminate HAP contracts due to insufficient funding, the APHA will terminate assistance in the order described below.

- Single, non-elderly, non-disabled individuals will be terminated first.
- Non-elderly, non-disabled households who are able to pay 90 to 100% of their adjusted income towards rent would be terminated second.
- Non-elderly, non-disabled households who are able to pay 80 to 89% of their adjusted income towards rent would be terminated third.
- Non-elderly, non-disabled households who are able to pay 70 to 79% of their adjusted income towards rent would be terminated fourth.
- Non-elderly, non-disabled households who are able to pay 60 to 69% of their adjusted income towards rent would be terminated fifth.
- Non-elderly, non-disabled households who are able to pay 50 to 59% of their adjusted income towards rent would be terminated sixth.

12.1.7 Other Reasons to Terminate Assistance

APHA Policy

The APHA **will** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. (Exhibit 4-1 is a listing of family obligations and related APHA policies.)

The family failed to report assets, increased income, and/or family composition two (2) times in any one (1)-year rolling period. Assistance will be terminated the second (2nd) time unreported assets, income or family composition occurs. Note: Assistance may be terminated at other times based on the participant's reporting history, the participant's failure to respond to a specific request for income, asset, or household information, or other instances as approved by HUD guidelines.

Any family member has been evicted from federally assisted housing in the last three years.

Any PHA has ever terminated assistance under the program for any member of the family.

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

Any family member is convicted of a felony for fraud, bribery, or corruption.

The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with APHA or any other public housing authority.

A family member has engaged in or threatened violent or abusive behavior toward APHA personnel.

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

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

In making its decision to terminate assistance, the APHA will consider alternatives and other factors described in this chapter and may, on a case-by-case basis, choose not to terminate assistance. Termination of assistance for criminal activity and/or drug or alcohol use/abuse requires ADOH Director approval.

12.2 CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

12.2.1 Evidence

For criminal activity, the APHA will use verification and the concept of the preponderance of evidence as the standard for making termination decisions.

APHA Policy

Preponderance of the evidence will always be used in conjunction with verified information that may include verbal, written, and/or any combination thereof. The APHA may consider all relevant circumstances when deciding whether to deny assistance based on a family's history except in the situations for which denial of assistance is mandated.

12.2.2 Consideration of Circumstances

APHA Policy

The APHA will consider the following factors when making its decision to terminate assistance:

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

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

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

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

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

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

If the owner's termination of tenancy is not due to a serious or repeated violation of the lease, and if the APHA has no other grounds for termination of assistance, the APHA may issue a new voucher so that the family can move with continued assistance.

12.2.3 Reasonable Accommodation

If the family includes a person with disabilities, the APHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation.

APHA Policy

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

12.3 VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSUALT, AND STALKING

Violence Against Women Reauthorization Act of 2013 (VAWA 2013).

The Final Rule was published in the Federal Register on November 16, 2016. This final rule implements in HUD's regulations the requirements of the 2013 reauthorization of the Violence Against Women Act (VAWA), which applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistent with all nondiscrimination and fair housing requirements. The 2013 reauthorization (VAWA 2013) expands housing protections to HUD programs beyond HUD's public housing program and HUD's tenant-based and project based Section 8 programs (collectively, the Section 8 programs) that were covered by the 2005 reauthorization of the Violence Against Women Act (VAWA 2005).

Additionally, the 2013 law provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking. Specifically, this rule amends HUD's generally applicable regulations, HUD's regulations for the public housing and Section 8 programs that already pertain to VAWA, and the regulations of programs newly covered by VAWA 2013. In addition to this final rule, HUD is publishing a notice titled the Notice of Occupancy Rights under the Violence Against Women Act (Notice of Occupancy Rights) that certain housing providers must give to tenants and applicants to ensure they are aware of their rights under VAWA and these implementing regulations, a model emergency transfer plan that may be used by housing providers to develop their own emergency transfer plans, a model emergency transfer request form that housing providers could provide to tenants requesting an emergency transfer under these regulations, and a new certification form for documenting incidents of domestic violence, dating violence, sexual assault, and stalking that must be used by housing providers.

If an individual meets all eligibility requirements and complies with all occupancy requirements, the individual cannot be denied assistance or have assistance terminated solely on the basis that the individual is a victim of domestic violence, dating violence, stalking, or sexual assault.

APHA's Emergency Transfer Plan (sample Form HUD-5381) is publicly available upon request. The plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request a transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. As the APHA does not own or manage any physical assets (property), the emergency transfer

may only consist of the issuance of a voucher to the victim(s) of a VAWA concern/incident.

As the APHA does not enter into any leases with any residents, lease bifurcation will be at the discretion of the property owner.

12.3.1 Victim Documentation

APHA Policy

The APHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history that would warrant denial under the APHA's policies. Therefore, if the APHA makes a determination to deny admission to an applicant family, the APHA will offer the applicant/tenant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

The documentation may include the use of HUD's Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation, Form HUD-5382.

The APHA may use the Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 when an emergency transfer is requested.

12.3.2 Terminating the Assistance of a Perpetrator

APHA Policy

When the actions of a participant or other family member result in a APHA decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, the APHA will request that the victim use HUD's Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation, Form HUD-5382 and supporting documentation in accordance with the stated time frame. The APHA may terminate the perpetrator's assistance and continue assistance for the remaining, non-culpable family members. If the victim does not provide the certification and supporting documentation, the APHA may proceed with termination of the family's assistance.

12.3.3 Confidentiality

APHA Policy

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

12.4 TERMINATION NOTICE

If a family's assistance is to be terminated involuntarily the APHA must give the family written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family's right to an informal hearing
- Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

Written notice must also be provided to the owner with the effective date of the termination of the HAP contract.

APHA Policy

When termination is initiated by the APHA, the notice to terminate will be sent to the family and owner at least 30 calendar days prior to the effective date of the termination unless there is good cause to terminate assistance with a shorter notice period.

If a family vacates the unit without informing the APHA, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the APHA learns the family has vacated the unit and effective immediately.

When a family requests to be terminated from the program they must do so in writing to the APHA.

Termination Based on Citizenship Status

The APHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the APHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the APHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

12.5 ALTERNATIVES TO TERMINATION OF ASSISTANCE

12.5.1 Change in Household Composition

As a condition of continued assistance, the APHA may require that any household member who participated in or was responsible for an offense no longer reside in the unit.

APHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon request.

12.5.2 Repayment of Family Debts

APHA Policy

If a family owes the APHA, as a condition of continued assistance, the APHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the APHA of the amount owed.

Chapter 13

VASH PROGRAM
(Veterans Administration Supportive Housing Program)

The APHA administers vouchers awarded specifically for the VASH program to assist homeless veterans. Listed below are applicable exceptions to HUD's regulatory requirements for the HCVP. Unless noted as an exception below or as directed by HUD, VASH participants abide by the same program requirements as other HCVP participants.

13.1 WAITING LIST

The APHA does not maintain a waiting list for VASH applicants. Potential participants are referred to the APHA by the Veterans Administration Medical Center (VAMC) in Prescott, Arizona.

13.2 APPLICANT SCREENING

The only screening performed by the APHA for VASH applicants is to ensure they are not registered sex offenders and that they are not already receiving Section 8 rental assistance. VASH applicants are not required to submit fingerprint cards. However, as with regular participants, the APHA will conduct a court records search for VASH participants at annual certification and may be terminated from the HCVP based on criminal activity.

13.3 INCOME

Compensated Work Therapy (CWT) is a Veterans Health Administration (VHA) treatment program that consists of two major clinical models: transitional work and supported employment. Both are integrated into treatment, and provided under medical orders of VHA physicians. CWT is not considered temporary employment program by VHA, and there are no regulations establishing a time limit on participation. Participation is based on the treatment needs of the individual veteran, and judgment of the treatment team. Therefore, the number of hours per week/month, the length of participation, and the number of times the veteran participates in such programs varies widely among veterans.

The APHA cannot make a general determination that such income should be excluded as temporary, nonrecurring or sporadic income because in the case of CWT and Incentive Therapy (IT), the factors for making such a determination are case specific, not program specific. Circumstances vary considerably depending on the situation of each veteran and local VA administrative policies.

The APHA will verify the projected length of time for participation and determine if the income is temporary on case-by-case basis. Generally, participation of 6 months or less

in either program will be considered temporary the first time the veteran participates in the program. After the first time, the veteran's wages will be considered income if the veteran will be in the program for more than three months.

13.4 HOUSING AND LEASE TERM

VASH participants may live on the grounds of a VAMC in units owned by the Veterans Administration.

Initial leases may be less than 12 months.

13.5 PORTABILITY

The APHA will obtain approval from the VAMC before approving a VASH participant to port to another housing authority's jurisdiction. (The VAMC must first ensure there is a VAMC in the area with a case manager to meet the needs of the participant.)

13.6 TERMINATION OF ASSISTANCE

When the VAMC terminates a participant from the program for failing to adhere to case management or other VAMC requirements, the APHA will terminate the rental assistance as provided in HUD regulations.

Before terminating a VASH participant for HCV program violations, the APHA will discuss the proposed termination with VAMC staff. Terminations will be decided on a case-by-case basis.

13.7 VOUCHER REISSUANCE

When a VASH participant no longer requires case management services, the participant will continue in the HCVP using the VASH voucher. The APHA will not issue a regular voucher to replace to the VASH voucher. Vouchers issued under this program remain VASH vouchers upon turnover.

Chapter 14

PROGRAM INTEGRITY

14.1 PREVENTING ERRORS AND PROGRAM ABUSE

The APHA is committed to ensuring that subsidy funds are spent in accordance with HUD requirements.

For purposes of this chapter, the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

APHA Policy

To ensure that the APHA's HCV program is administered effectively and according to the highest ethical and legal standards, the APHA will employ a variety of techniques to ensure the integrity of the program.

The APHA will discuss program compliance and integrity issues during the voucher briefing sessions and annual recertification meetings.

The APHA provides numerous documents including but not limited to *HUD Fact Sheet – How Your Rent Is Determined, What You Should Know About EIV,* and *Is Fraud Worth It?*

The APHA clearly explains the types of actions a family must avoid and the penalties for program abuse.

14.2 DETECTING ERRORS AND PROGRAM ABUSE

APHA Policy

In addition to the SEMAP quality control requirements, the APHA will employ a variety of methods to detect errors and program abuse.

The APHA routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The APHA will compare family-reported income and expenditures to detect possible unreported income.

The APHA will encourage staff, program participants, and the public to report possible program abuse.

14.3 INVESTIGATING ERRORS AND PROGRAM ABUSE

14.3.1 APHA Investigation

APHA Policy

The APHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation.

The APHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

14.3.2 Consent to Release of Information

The APHA may investigate possible instances of error or abuse using all available APHA and public records. If necessary, the APHA will require HCV families to give consent to the release of additional information.

14.3.3 Analysis and Findings

APHA Policy

The APHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation, the APHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the APHA, and (3) what corrective measures will be assessed.

14.3.4 Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the APHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

APHA Policy

In the case of family-caused errors or program abuse, the APHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the APHA will take into consideration (1) the seriousness of the offense, and (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

14.3.5 Notice and Appeals

APHA Policy

The APHA will inform the relevant party in writing of its findings and remedies upon conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the APHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable.

14.4 FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the APHA to use incorrect information provided by a third party.

14.4.1 Family Reimbursement to APHA

APHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The APHA may, but is not required to, offer the family a repayment agreement. If the family fails to repay the excess subsidy, the APHA will terminate the family's assistance.

14.4.2 APHA Reimbursement to Family

APHA Policy

The APHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

14.4.3 Prohibited Actions

APHA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the APHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to APHA employees or contractors

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the APHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The APHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

14.4.4 Penalties for Program Abuse

In the case of program abuse caused by a family the APHA may, at its discretion, impose any of the following remedies.

- The APHA may require the family to repay excess subsidy amounts paid by the APHA, as described earlier in this section.
- The APHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- The APHA may deny or terminate the family's assistance.
- The APHA may refer the family for state or federal criminal prosecution.

14.5 OWNER ERROR OR PROGRAM ABUSE

14.5.1 Owner Reimbursement

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the APHA any excess subsidy received. The APHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the APHA may allow the owner to pay in installments over a period of time.

APHA Policy

In cases where the owner has received excess subsidy, the APHA will require the owner to repay the amount owed.

14.5.2 Prohibited Owner Actions

APHA Policy

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the APHA
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge

- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to employees, contractors, or other APHA representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the APHA
- Residing in the unit with an assisted family

14.5.3 Remedies and Penalties

When the APHA determines that the owner has committed program abuse, the APHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments.
- Terminate the HAP contract.
- Bar the owner from future participation in any APHA programs.
- Refer the case to state or federal officials for criminal prosecution.

14.6 APHA ERRORS OR PROGRAM ABUSE

APHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

14.6.1 Repayment to the APHA

Neither a family nor an owner is required to repay an overpayment of subsidy if APHA staff cause the error or program abuse.

14.6.2 APHA Reimbursement to Family or Owner

The APHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of APHA or and Owner/Agent-caused error.

14.6.3 Prohibited Activities

<u>APHA Policy</u>

Any of the following will be considered evidence of program abuse by APHA staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the APHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of APHA activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

14.7 CRIMINAL PROSECUTION

APHA Policy

When the APHA determines that program abuse by an owner, family, or APHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the APHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

Chapter 15

PROGRAM ADMINISTRATION

15.1 PAYMENT STANDARDS AND UTILITY ALLOWANCES

Payment Standards dictate the maximum subsidy a family can receive. Payment Standards are based on fair market rents (FMRs) published annually by HUD.

Utility Allowances, specify how a family's payment should be adjusted to account for tenant-paid utilities.

APHA Policy

Copies of the payment standard and utility allowance schedules are available for review at Arizona Department of Housing office during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The APHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

15.1.1 Updating Payment Standards

When HUD updates its FMRs, the APHA must update its payment standards if the standards are no longer within the basic range.

APHA Policy

The APHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range," the APHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The APHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The APHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the APHA will consider increasing the payment standard. In evaluating rent burdens, the APHA will not include families renting a larger unit than their family unit size.

Lease-up Time and Success Rate: The APHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective December 1 of every year unless, based on the proposed FMRs, it appears that one or more of the APHA's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the APHA's payment standards will be effective October 1 instead of December 1.

If the APHA has already processed move-ins and/or reexaminations that will be effective on or after October 1, and the effective date of the payment standards is October 1, the APHA will make retroactive adjustments to the certifications as appropriate.

When APHA changes its payment standards or when the family moves to a new unit or has a change in their family size or composition, new payment standards are applied. If APHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:

- If the payment standard amount has *increased,* the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
- If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.

If the family <u>moves to a new unit</u> or <u>has a change in their family size</u> or <u>composition</u> or <u>a new HAP contract is executed due to changes in the lease</u> (even if the family remains in place), the current payment standard applicable to the family will be used when the new HAP contract is processed.

Exceptions

Unit-by-unit exceptions to the APHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. This type of exception does not affect the APHA's payment standard schedule.

When needed as a reasonable accommodation, the APHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size. The APHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

APHA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception:

The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

15.1.2 Utility Allowances

The APHA establishes the utility allowance schedule used in determining family share and the subsidy. The APHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection. The APHA will use the appropriate utility allowance for the family for the lesser of the size of the actual dwelling unit leased by the family or the voucher size issued under the APHA's occupancy standards.

15.1.2-1 Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the utility allowance schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member requires such an accommodation, the APHA will approve an allowance for air-conditioning, even if the APHA has determined that an allowance for air-conditioning generally is not needed.

15.1.2-2 Utility Allowance Revisions

The APHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised. Generally, revisions to the utility allowance schedules will be effective December 1.

The APHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

15.2 PASSBOOK SAVINGS RATE

APHA Policy

The Passbook Savings Rate will be established annually, in accordance with HUD PIH Notice 2012-29, and will be effective December 1.

APHA will use the Savings National Rate in effect on September 1 (or the next business day) every year for certifications with an effective date of December 1 and later to determine the basis. The APHA will establish a passbook rate within 75 basis (plus or minus .75 percent) of the Savings National Rate in effect at the time the APHA establishes the passbook rate. The passbook rate may not be less than 0 percent. The Savings National Rate is a simple average of rates by United States (US) depository institutions as calculated by the Federal Deposit Insurance Corporation (FDIC). The FDIC publishes this rate on a weekly basis. The PHA can access historical and current Savings National Rates at the following website: www.fdic.gov/regulations/resources/rates/.

15.3 INFORMAL REVIEWS

When the APHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

15.3.1 Decisions Subject to Informal Review

The APHA must give an applicant the opportunity for an informal review of a decision denying assistance such as:

- Denying listing on the APHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- A determination to deny admission based on an unfavorable criminal history including events that may be the result of domestic violence, dating violence, sexual assault, or stalking.

Informal reviews are *not* required for the following reasons:

- Discretionary administrative determinations
- General policy issues or class grievances
- A determination of the family unit size under the subsidy standards
- A determination not to grant approval of the tenancy
- A determination that the unit is not in compliance with the HQS
- A determination that the unit is not in accordance with the HQS due to family size or composition
- Failure on the part of the family to respond to the APHA's notification of selection from the waiting list. Refer to Section 2.3.3, Selection Notification.

APHA Policy

An informal review is not offered if an applicant is removed from the waiting list for non-responsiveness.

15.3.2 Notice to the Applicant

The applicant must be given prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the decision and must state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

15.3.3 Scheduling an Informal Review

APHA Policy

A request for an informal review must be in writing and postmarked within 15 days from the letter/notice date of the APHA's denial of assistance.

The APHA must schedule and send written notice confirming the informal review within 15 days of the family's request.

15.3.4 Informal Review Procedures

APHA Policy

The informal review cannot be conducted by the person who made or approved the decision under review or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the APHA.

The person conducting the review will make a recommendation to the APHA, but the APHA is responsible for making the final decision as to whether assistance should be granted or denied.

15.3.5 Discovery

APHA Policy

At least 3 business days before the hearing, the applicant must be given the opportunity to examine any documents directly relevant to the hearing. The applicant must be allowed to copy any such documentation at the participant's expense. If the APHA does not make the documentation available for examination at the request of the participant, the APHA may not rely on the document at the hearing. (Generally, the APHA will provide copies of relevant documents along with the notice confirming the scheduled informal review.)

At least 3 business days before the hearing and at the APHA office, the APHA must be given the opportunity to examine any applicant documents that are directly relevant to the hearing.

The APHA must be allowed to copy any documents, at the APHA's expense. If the applicant does not make the documents available for examination on request of the APHA, the applicant may not rely on the document at the hearing.

15.3.6 Informal Review Decision

The person conducting the review (hereafter, hearing officer) will submit their decision to the APHA within 15 days of the informal review. The APHA will review the decision and evaluate:

APHA Policy

In rendering a decision, the APHA will generally accept the decision of the hearing officer but reserves the right to evaluate the following matters:

The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance may be overturned.

The validity of the evidence. The APHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and HUD requires the denial, the APHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the APHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The APHA or the hearing officer will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed certified mail, return receipt, within 15 days of the informal review, to the applicant and his or her representative, if any.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

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

15.4 INFORMAL HEARINGS FOR PARTICIPANTS

The APHA must offer an informal hearing for certain determinations relating to the individual circumstances of a participant family. The purpose of the informal hearing is to consider whether the APHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and APHA policies.

15.4.1 Decisions Subject to Informal Hearing

Circumstances for which the APHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment

- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the APHA utility allowance schedule
- A determination of the family unit size under the APHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under APHA policy and HUD rules
- Denial of assistance based on an unfavorable criminal history including events that may be the result of domestic violence, dating violence, sexual assault, or stalking.

Circumstances for which an informal hearing is *not* required are as follows:

- Discretionary administrative determinations
- General policy issues or class grievances
- Establishment of the utility allowance schedule for families in the program
- A determination not to approve an extension or suspension of a voucher term
- A determination not to approve a unit or tenancy
- A determination that a unit selected by the participant is not in compliance with the HQS
- A determination that the unit is not in accordance with HQS because of family size
- A determination by the APHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

<u>APHA Policy</u>

The APHA will only offer participants the opportunity for an informal hearing when required to by the regulations.

15.4.2 Notice to the Family

When the APHA makes a decision that is subject to informal hearing procedures, the APHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the APHA will provide the family with an explanation of the basis of the determination.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the APHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family

does not agree with the decision, they may request an informal hearing on the decision, and the deadline for the family to request an informal hearing.

APHA Policy

In cases where the APHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the APHA.

A brief statement of the reasons for the decision.

The date the proposed action will take place.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

A statement that the family may request a reasonable accommodation to participate in the informal hearing process.

To whom the hearing request should be addressed.

A copy of the APHA's hearing procedures.

15.4.3 Scheduling an Informal Hearing

APHA Policy

A request for an informal hearing must be made in writing and postmarked within 15 days from the date of the APHA's decision or notice to terminate assistance.

The APHA must schedule and send written notice confirming the informal hearing to the family within 15 days of the family's request.

The family may ask to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date. At its discretion, the APHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the APHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The APHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

15.4.4 Discovery

APHA Policy

At least 3 business days before the hearing, the participant must be given the opportunity to examine any documents directly relevant to the hearing. The applicant must be allowed to copy any such documentation at the participant's expense.

If the APHA does not make the documentation available for examination at the request of the participant, the APHA may not rely on the document at the hearing. (Generally, the APHA will provide copies of relevant documents along with the notice confirming the scheduled informal review.)

At least 3 business days before the hearing and at the APHA office, the APHA must be given the opportunity to examine any participant documents that are directly relevant to the hearing. The APHA must be allowed to copy any documents, at the APHA's expense.

If the participant does not make the documents available for examination on request of the APHA, the applicant may not rely on the document at the hearing.

If the participant will be represented by legal counsel, the participant must notify the APHA *at least 3 business days before the hearing*.

15.4.5 Participant's Right to Counsel

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing. The participant must notify the APHA at least 3 business days before the hearing if they will be represented by legal counsel.

15.4.6 Hearing Officer

Informal hearings will be conducted by a person or persons approved by the APHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

15.4.7 Attendance

<u>APHA Policy</u>

Hearings may be attended by a hearing officer and the following applicable persons:

- APHA representative(s), any witnesses for the APHA, APHA legal counsel
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the APHA as a reasonable accommodation for a person with a disability

15.4.8 Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the APHA's hearing procedures.

APHA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures and guidelines for conduct established by the hearing officer. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

15.4.9 Evidence

The APHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

APHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the APHA or the family fail to comply with the discovery requirements, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

15.4.10 Hearing Officer's Decision

The person who conducts the hearing must promptly issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

APHA Policy

In rendering a decision, the hearing officer will consider the following matters:

APHA Notice to the Family: The hearing officer will determine if the reasons for the APHA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the APHA and the family were given the opportunity to examine any relevant documents in accordance with APHA policy.

APHA Evidence to Support the APHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the APHA's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and APHA policies. If the grounds for termination are not specified in the regulations or in compliance with APHA policies, then the decision of the APHA will be overturned.

The hearing officer will issue a written decision to the family and the APHA within 15 days of the hearing.

15.4.11 Procedures for Rehearing or Further Hearing

APHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the APHA will take effect and another hearing will not be granted.

15.4.12 APHA Notice of Final Decision

The APHA is not bound by the decision of the hearing officer for matters in which the APHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the APHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the APHA must promptly notify the family of the determination and the reason for the determination.

APHA Policy

The APHA will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent certified mail, return receipt. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the APHA's file.

If the termination of assistance was upheld, the effective date will be the date originally provided in the Notice of Termination or a later date as determined by APHA Administrator.

15.4.13 Hearing and Appeal Provisions for Non-Citizens

Refer to the Housing Choice Voucher Program Guidebook, 7420.10G, for guidance.

15.5 OWNER OR FAMILY DEBTS TO THE APHA

APHA Policy

When the action or inaction of an owner or participant results in the overpayment of housing assistance, the APHA holds the owner or participant liable to return any overpayments to the APHA.

The APHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the APHA, the APHA may utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil law suit

State income tax set-off program

15.5.1 Owner Debts

APHA Policy

The owner must repay any amount due to the APHA by an owner within 30 days of the APHA determination of the debt.

If the owner fails to repay the debt within the required period and is entitled to future HAP payments, the APHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments, the APHA will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the APHA will ban the owner from future participation in the program and may pursue other modes of collection.

15.5.2 Family Debts

APHA Policy

Any amount due to the APHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the APHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the APHA will terminate the assistance upon notification to the family and may pursue other modes of collection.

15.5.3 Repayment Agreement

The term r*epayment agreement* refers to a formal document signed by a participant or owner and provided to the APHA in which a participant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific times.

Payment Thresholds

APHA Policy

Amounts of $50.00 or less owed to the APHA must be repaid within 30 days.

For amounts owed of more than $50.00, the monthly payment will be approximately 10% of the family's monthly adjusted income. The APHA may make other payment arrangements as determined appropriate.

Down Payment Requirement

APHA Policy

Prior to the execution of a repayment agreement, the owner or family must pay at least 10% of the balance owed to the APHA.

Execution of the Agreement

APHA Policy

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

Due Dates

APHA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Non-Payment

APHA Policy

If a payment is not received by the end of the business day on the date due, and the APHA did not give prior approval for the missed payment, the APHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement. The APHA will notify the family that the balance of the amount owed is due and if not received within 30 days, assistance will be terminated.

Upon the third delinquent payment in a 12-month period, the APHA will notify the family that the balance is due and if not received within 30 days, assistance will be terminated.

No Offer of Repayment Agreement

APHA Policy

The APHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner and payments are not being made as required. The APHA may not enter into a repayment agreement if the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution. HUD guidance may be sought when making the determination.

15.6 RECORDKEEPING

The APHA must ensure that all applicant and participant files are maintained in a way that protects an individual's right to privacy.

During the term of each assisted lease, and for at least three years thereafter, the APHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the APHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting APHA budget and financial statements for the program;
- Records to document the basis for APHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

Note: If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

15.7 CONFIDENTIALITY REQUIREMENTS

15.7.1 Tenant Data

APHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

APHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized staff of the Arizona Department of Housing.

Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Confidentiality requirements apply also to information obtained through the Enterprise Income Verification System. Refer to APHA's EIV Security Policies and Procedures for additional guidance.

15.7.2 Criminal Records

APHA Policy

The APHA may only disclose the criminal conviction records received from a law enforcement agency to the named subject, officers or employees of the APHA, or to authorized representatives of the APHA who have a job-related need to have access to the information.

15.7.3 Victims of Domestic Violence

For additional information on VAWA 2013 that is applicable to HUD programs, please **refer to Chapter 3 and 12.**

APHA Policy

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

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)

MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VASH	Veterans Administration Supportive Housing (Program)
VAMC	Veterans Administration Medical Center
VAWA	Violence Against Women Reauthorization Act

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

***Absorption*.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

***Accessible*.** The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

***Adjusted Income*.** Annual income, less allowable HUD deductions.

***Adjusted Annual Income*.** Same as Adjusted Income.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative fee reserve (formerly "operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

***Admission*.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). *The* written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

***Annual Income*.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

"As-paid" States. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

***Assets*.** (See Net Family Assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

Budget authority. An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

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

Child care expenses**.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space**.** In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form**.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract**.** (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

***Covered families*.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

***Dependent*.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

***Disability assistance expenses*.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled family*.** A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See Person with Disabilities.

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

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

***Domicile*.** The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

***Economic Self-Sufficiency Program*.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

***Elderly family*.** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

***Elderly Person*.** An individual who is at least 62 years of age.

Eligible Family (Family). A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

***Employer Identification Number (EIN)*.** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

***Evidence of citizenship or eligible status*.** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

Extremely Low Income Family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. *(CFR 5.603)*

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

***Fair market rent (FMR)*.** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

***Family*.** As defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person.

APHA further defines a family to include two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who certify that each individual's income and other resources will be available to meet the needs of the family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program **(**FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency**.** A department of the executive branch of the Federal Government.

Foster Child Care Payment**.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap**.** Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense**.** See “Disability Assistance Expense.”

HAP contract. Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. The household includes people in addition to family members who, with APHA permission, live in the assisted unit, such as live-in aides, foster children, and foster adults.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). *A* State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing.)

Housing Quality Standards. The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The Department of Housing and Urban Development.

Immediate family member. A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

Imputed Asset. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

Imputed Income. HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income**.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income For Eligibility. Annual Income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps**.** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Initial PHA**.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Jurisdiction**.** The area in which the PHA has authority under State and local law to administer the program.

***Landlord*.** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

***Lease*.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

***Live-in aide*.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

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

Local Preference. A preference used by the PHA to select among applicant families.

Low Income Family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

***Medical expenses*.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Merger Date. October 1, 1999.

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

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

***Monthly adjusted income*.** One twelfth of adjusted income.

***Monthly income*.** One twelfth of annual income.

Mutual housing. Included in the definition of “cooperative.”

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

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

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

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

***Office of General Counsel (OGC)*.** The General Counsel of HUD.

***Owner*.** Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant *(participant family).* A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Persons With Disabilities. A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

***Portability*.** Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

***Premises*.** The building or complex in which the dwelling unit is located, including common areas and grounds.

***Private space*.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

***Processing entity*.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

***Public Assistance*.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

***Public Housing Agency (PHA)*.** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

***Reasonable rent*.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

***Receiving PHA*.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

***Recertification*.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

***Remaining Member of Tenant Family*.** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

***Secretary*.** The Secretary of Housing and Urban Development.

***Section 8*.** Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. *A*ll HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

***Social Security Number (SSN)*.** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

***Special housing types*.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A

reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called “tolling”.

Tenancy Addendum. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See “Family rent to owner”.

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. A person who served in the United States active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (as described in VAWA 2013).

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

Dating Violence means violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Stalking means (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(Housing Choice Voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-to-work (WTW) family. A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).