

# DEDHAM HOUSING AUTHORITY

## ADMISSION AND CONTINUED OCCUPANCY POLICY

November 2017

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# **I. Nondiscrimination**

## **A. Complying with Civil Rights Laws, Affirmatively Furthering Fair Housing Deconcentration of Poverty**

### **1. Compliance with Applicable Laws**

Civil rights laws protect the rights of applicants and residents to equal treatment by the Housing Authority in the way it carries out its programs. It is the policy of the Dedham Housing Authority (DHA) to comply with all Civil Rights laws, including but not limited to:

Title VI of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, religion, national origin or sex 24 CFR Part 1;

Title VIII of the Civil Rights Act of 1968 (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on disability and familial status, and spell out forms of prohibited discrimination 24 CFR Part 100;

Executive Order 11063,

Section 504 of the Rehabilitation Act of 1973, which describes specific housing rights of persons with disabilities 24 CFR Part 8;

The Age Discrimination Act of 1975, which establishes certain rights of the elderly 24 CFR Part 146;

Title II of the Americans with Disabilities Act of 1990 (ADA) requires that the DHA provide individuals with disabilities with access to its programs, services and activities including, common areas and public spaces;

The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule;

The Violence against Women Act;

Applicable State laws or local ordinances, and

Applicable legislation protecting the individual rights of tenants, applicants or staff that may subsequently be enacted (24 CFR 960.103).

The DHA does not discriminate because of race, color, national origin, sex, religion, familial status, disability, marital status, gender identity, or sexual orientation in the leasing, rental, occupancy, use, or other disposition of housing or related facilities, including land that is part of a development under the DHA's jurisdiction covered by a public housing Annual Contributions Contract with HUD.

The DHA does not, on account of race, color, national origin, sex, religion, familial status, disability, marital status, gender identity, or sexual orientation:

- (a) Deny anyone the opportunity to apply for housing (when the waiting list is open), nor deny to any qualified applicant the opportunity to lease housing suitable to its needs;
- (b) Provide anyone housing that is different (of lower quality) from that provided others;
- (c) Subject anyone to segregation or disparate treatment;
- (d) Restrict anyone's access to any benefit enjoyed by others in connection with the housing program;
- (e) Treat anyone differently in determining eligibility or other requirements for admission;
- (f) Deny anyone access to the same level of services<sup>1</sup>; or
- (g) Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program.

Each applicant who is a member of a particular group will be treated as an individual based on his or her attributes and behavior.

The DHA will correct situations or procedures that create a barrier to equal housing opportunity for all. To permit people with disabilities to take full advantage of the DHA's housing program and non-housing programs, in accordance with Section 504, and the Fair Housing Amendments Act of 1988.

## **2. Affirmatively Further Fair Housing**

The HAs administers the Public Housing program in compliance with all applicable fair housing and other civil rights requirements, including the authorities cited at 24 CFR § 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, titles II or III of the Americans with Disabilities Act, and HUD's Equal Access Rule. The HA must also affirmatively further fair housing in accordance with its certification pursuant to 24 CFR § 903.7(o).

It is the objective of the Housing Authority (HA) to ensure that our policies and practices affirmatively further fair housing, promote equity, enhance choice and overcome the effects of impediments to fair housing choice. It is the policy of the HA to comply fully with all Federal, State and local nondiscrimination laws and with the rules and regulations governing Fair Housing, Civil Rights and Equal Opportunity in housing and employment. The HA certifies that it will provide equal opportunities for inclusion in our housing programs regardless of a person's race, religion, color, national origin, sex, age, ancestry, familial status, veteran status, or physical or mental impairment, marital status, gender identity, or sexual orientation

The HA will be affirmative in our goal of complying with all fair housing requirements under the law by educating our housing partners in their responsibilities under the law. The HA will

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<sup>1</sup> This requirement applies to services provided by DHA and services provided by others with DHA's permission on public housing property. Thus, a health screening program offered by the local health department in a public housing community room would have to be fully accessible to persons with disabilities.



affirmatively further fair housing by continuing to educate our staff on fair housing laws. The HA will affirmatively further fair housing by placing Fair Housing Posters in the waiting area and including fair housing information in packets for our tenants. The HA will inform families of their rights under Fair Housing Laws, how to report unlawful discrimination and procedures for filing complaints. The HA will make reasonable accommodations as required under the law.

In order to avoid a concentration of poverty in our federal public housing the DHA has adopted local preferences which provide a preferences for families working or graduates of or active participants in education and training programs that are designed to prepare individuals for the job market. A specific description of the preferences and the order of selection is set forth later within this Policy. The majority of our housing resources and support services, including Family Self-Sufficiency, are targeted towards low and very low income persons.

The lack of affordable rental housing and affordable homeownership in the communities in a de facto manner, limit fair housing choice. The affordable rental housing that the HA provides through our public housing is one step to overcome impediments to fair housing choice.

The HA will take the following steps to address impediments to fair housing choice;

1. Increase staff knowledge of fair housing laws and obligations. The HA will collaborate with organizations to provide education and outreach to our Board, staff, and consumers.
2. Facilitate education for community stakeholders on fair housing laws. This will be done by incorporating fair housing information into existing materials and outreach, and by participating in fair housing trainings. Awareness of legal resources for fair housing violations will also be promoted.
3. The HA will participate in MassAccess, an online housing registry of affordable housing opportunities that are accessible to persons with disabilities.
4. The HA promotes integrated housing to meet a diversity of housing needs.
5. The HA will instruct families of the ability to make complaints of non-compliance to the Massachusetts Commission Against Discrimination and/or HUD.
6. The HA will seek to increase the supply of affordable housing and rental assistance for very low-income households.
7. The HA will collaborate with agencies to provide consumer credit counseling services, first time homebuyer classes, and homebuyer and landlord education courses.
8. The HA provides escrow accounts for our residents that can be used for down payments to become first time homebuyers. The HA also works with agencies that can provide financial assistance and grants for down payments for first time homebuyers.

The HA's office and community space is accessible to people with disabilities. Accessibility for the hearing impaired is provided by the TTD/TDY telephone service provider.

In the event that a family informs the DHA that they believe they have been illegally discriminated against, the family will be provided with appropriate Discrimination Complaint Forms and/or information which include.

- a. A Massachusetts Commission Against Discrimination (MCAD) Complaint Form
- b. A HUD Discrimination Complaint Form

The family will also be provided with the telephone numbers for the following:

HUD's Fair Housing Enforcement Center: - 1-800 827-5005  
MCAD - (617) 727-3990

## **B. Reasonable Accommodation**

The Housing Authority is aware of the requirement to provide a Reasonable Accommodation in its rules or policies when so required under the law. Thus, certain policies described herein may be amended in specific situations if to do so is required as a reasonable accommodation to an individual with a disability. The provision of such accommodation shall not mean that such policy has been altered or amended and the Authority shall retain full authority to continue to enforce policies as so described within this Policy for all other clients.

The HA will make Reasonable Accommodations in accordance with the HA's Reasonable Accommodation in Housing Policy.

In order to ensure interested that persons can obtain information of accessible services the Housing Authority places a Notice regarding Reasonable Accommodation within the lease up materials. Further, a copy of this Notice is posted conspicuously at the DHA office.

## **C. Limited English Proficiency**

The DHA has adopted a Language Access Plan (LAP) to address obligations in relation to providing meaningful access to Limited English Proficient applicants and tenants. This LAP was prepared utilizing guidance as set forth in the U.S. Department of Housing and Urban Development, Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons; Notice," 72 FR 2732 (January 22, 2007). This policy is on file at the DHA Main Office.

## **D. Persons with Hearing or Vision Impairments**

The DHA informs applicants that alternative forms of communication that can be used other than plain language paperwork.

The DHA has a TTD/TTY number.

The DHA will make large-print and/or audio versions of key program documents available upon request and/or one-on-one assistance will be provided upon request.

Sign language interpretation will be provided on an as needed basis.

Further, material may be read to the applicant/resident and explained orally by staff. A third party representative may be assigned to receive, interpret and explain housing materials and be present at all meetings. The HUD form 92006, Supplement to Application to Federally Assisted Housing is provided with all applications and may assist with this process.

## **II. Violence Against Women Act**

The DHA has adopted a detailed Policy to address the Violence Against Women Act including an Emergency Transfer Plan. This document is hereby incorporated by reference.

## **III. The Waiting List; Opening, Closing and Marketing**

### **A. The Waiting List**

#### **1. The Procedures for Opening and Closing the Waiting List**

Opening of the waiting list will be announced with a public notice stating that applications for public housing will again be accepted. The Housing Authority will employ minority media and a newspaper of general circulation to provide public notice which will state where, when, and how to apply. The notice will include the Fair Housing statement and will be in compliance with Fair Housing requirements.

#### **2. Outreach and Advertising**

The DHA will place advertisements in the local media. Newspapers will be of general circulation such as the Dedham Transcript, the Dedham Times and El Mundo. An appropriate equivalent may be substituted for any of these stated publications.

#### **3. Closing the Waiting List**

If the DHA's waiting list has sufficient applications to fill anticipated vacancies for the coming 12 months, DHA will close the waiting list completely.

A decision to close the waiting list will consider the number of applications and the ability of DHA to house applicants in twelve to eighteen months. Decisions to close waiting lists will be publicly

announced. The public notice will state the date the waiting list will be closed. The public notice will be published in a local newspaper of general circulation and also using minority media.

## **B. Completion of Application**

A pre- application will be utilized and stamped with the receipt date when it is accepted. Individuals and families may apply by mail or in person at the DHA office. Applications shall be accepted until notice of discontinuation is published in the same media as was used to announce the taking of applications. Basic information will be taken at the time of application. Personal interviews for detailed information and verifications of income to determine eligibility under the guidelines provided by HUD are scheduled as applicants come nearer to the top of the waiting list.

Eligible applicants will be placed on the list on a first-come, first-served basis, within the LHA adopted preferences and priorities. The waiting list is a computerized database which contains the following basic information: name, address, telephone number, race/ethnicity, and bedroom size.

Applicants are not requested to verify their information until such time as their name comes to the top of the waiting list and they are scheduled for an eligibility determination appointment. They will be required to again provide the most recent income data at the time of a unit offer so that the most recent income data may be used to determine the family's rental contribution.

## **C. Organizing the Waiting List**

### **1. Selection of Families and Priorities**

Eligible Applicants will be placed on a waiting list. The waiting list is a computer database and indicates the date of application, an automatic control number of the applicant and the bedroom size needed. Applicants will be chosen in accordance with HUD regulations.

### **2. Preferences**

Applicants are informed of the preferences governing occupancy at the time of application.

Selection shall be made among applicants utilizing preferences in the following order of priority:

1. Resident Families of Dedham who are currently working.

2. Resident families of Dedham who are graduates of or active participants in, education and training programs that are designed to prepare individuals for the job market (Must be verifiable)
3. Resident families of Dedham with no other local preference.
4. Nonresident families who are currently working.
5. Nonresident families who are graduates of, or active participants in, education and job training programs that are designed to prepare individuals for the job market. (Must be verifiable)

The Housing Authority gives preference to elderly persons/families, disabled persons/families and displaced persons/families over other single persons.

In addition to these local preferences the DHA may transfer current tenants who need alternate housing in the State Aided Family Housing Developments or current participants in the Section 8 Existing Voucher program.

The residency preference shall apply to all families residing within the DHA's residency preference area (the Town of Dedham). The residency preference shall also apply to families with a member who works or has been hired to work in the DHA residency preference area (the Town of Dedham). The residency preference shall not be based on how long that applicant has resided in or worked in the DHA residency preference area.

The use of this residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability or age of any member of an applicant family.

Further, an applicant must be given the benefit of the working family preference if the head and spouse, or sole member is age 62 or older, or is a person with disabilities.

The DHA has determined that its jurisdiction for purposes of Public Housing is that within the town limits of the town of Dedham.

### **3. Denial of Preference Status**

When the DHA determines an applicant does not qualify for a local preference, the PHA will provide prompt, written notice of the determination. The notice will contain:

1. A brief statement of reasons for the determination, and
2. Notice that the applicant has a right to meet with a DHA representative to review the determination.

#### **4. Deconcentration of Poverty**

Under 24 CFR part 903 Public housing developments operated by a PHA with fewer than 100 public housing units are not subject to deconcentration of poverty and income mixing requirements set forth within that regulation.

Notwithstanding such fact, in an effort to deconcentrate its public housing development (40-1), The DHA has adopted the following local preferences for the selection of families:

1. Resident Families of Dedham who are currently working.
2. Resident Families of Dedham who are graduates of, or active participants in, education and training programs that are designed to prepare individuals for the job market.
3. Nonresident families who are working.
4. Nonresident families who are graduates of, or active participants in, education and job training programs that are designed to prepare individuals for the job market.

These preferences must be verifiable. They are also described within the "Preference" section of this ACOP.

#### **5. Change in Preference Status While on the Waiting List**

Applicants whose preference status changes while they are on the waiting list retain their original date and time of application but may modify their preference status via notification and certification to the DHA.

If DHA determines that the family does now qualify for a preference, they will be moved up on the waiting list in accordance with their preference(s) and their date and time of application.

#### **6. Applicant Family Break Up**

The Housing Authority is bound by the court's determination if a court determines the disposition of property between members of the assisted family in a divorce or separation decree.

When no such court determination has been made, the Housing Authority shall determine which members of an assisted family will continue to remain on the Public Housing Waiting List if an applicant family breaks up. In making this determination, the HA shall consider the interests of all family members. The HA will decide which family member remains on the waiting list on a case by case basis, and the following factors may be included in the Housing Authority's decision:

- (1) – the interests of any minor child/children;
- (2) – the interests of ill, elderly, or disabled family members;
- (3)- whether family members were forced to leave the unit as a result of actual or threatened physical violence, by a spouse or other member of the household, (the HA shall take this factor into consideration regardless of whether the individual(s) leaving the unit are the victim or the perpetrator) and any applicable provisions under the Violence Against Women Act.
- (4) – family members remaining in the original unit;
- (5) - any other factors which in the discretion of the Housing Authority will affect the fairness and reasonableness of the determination.

In all such instance it is the responsibility of the applicant family to bring to the attention of the Housing Authority that the family has in fact broken up and a determination as to which members shall remain on the waiting list is to be made by the HA.

## **7. Notification of Eligibility Determination**

When an applicant's name reaches the top of the waiting list, they shall be so notified. The notice will include a date (within 7 days) in which the applicant must supply verification of income and other circumstances in order to be eligible for public housing.

## **8. How Applicants may be removed from the Waiting List**

### ***a. No Response***

Those applicants who fail to respond within the prescribed period of time shall be removed from the Waiting list, unless documented evidence is provided that the family was unable, due to health reasons, to comply with the deadline requirements. All notices returned undeliverable shall cause applicant's name to be withdrawn.

### ***b. Purge***

The DHA may purge the waiting list on an as needed basis. In order to do so the DHA will send a letter to each applicant on the Federal Public Housing Waiting List. This letter will be sent to the address on the Application or on any written change of status request that was completed and sent to the Housing Authority. Applicants will be requested to respond to the mailing within a time parameter set forth in the letter and the letter shall indicate that failure to respond will

result in the removal of his/her name from the Federal Public Housing Waiting List<sup>2</sup>. In the event that the applicant does not respond within the applicable time parameter, his/her name shall be removed from the Federal Public Housing Waiting List.

#### IV. Occupancy Guidelines

Units shall be occupied by families of the appropriate size. This policy maintains the usefulness of the units, while preserving them from excessive wear and tear and under-utilization.

##### Minimum and Maximum-Number-of-Persons-Per Unit Standard

Number of Bedrooms	Min Persons/Unit (Largest Unit Size)	Max Persons/Unit (Smallest Unit Size)
0BR	1	1
1BR	1	2
2BR	2	4
3BR	3	6
4BR	4	8
5BR	5	10

The following principles govern the size of unit for which a family will qualify. Generally, two people are expected to share each bedroom, except that units will be so assigned that:

(a) It will not be necessary for persons of different generations or opposite sex, other than husband and wife, significant others, unmarried partners to occupy the same bedroom, although they may do so at the request of the family.

(b) Exceptions to the largest permissible unit size may be made in case of reasonable accommodations for a person with disabilities. Exceptions to smallest unit size may be made to ensure that families with children are permitted to rent units which meet legal space requirements but are smaller than the family is entitled to under occupancy standards. This is so that families with children are not unreasonably restricted from obtaining housing. Occupancy levels are not intended to discriminate on the basis of familial status.

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<sup>2</sup> Upon request, reasonable accommodations will be made for persons with disabilities.



(c) Two children of the opposite sex will not be required to share a bedroom, although they may do so at the request of the family.

(d) DHA will count a child who is temporarily away from the home because the child has been placed in foster care, kinship care, or is away at school.

(e) A single head of household parent shall not be required to share a bedroom with his/her child, although they may do so at the request of the family.

(f) A live-in aide will be assigned a bedroom.

1. Generally, two persons per bedroom will be the standard for the smallest unit a family may be offered. Individual housing units with very small or very large bedrooms or other specific situations that inhibit or encourage lower or higher levels of occupancy may be permitted to establish lower or higher occupancy levels so long as the occupancy levels will not discriminate on the basis of familial status.

2. Generally, the largest unit size that a family may be offered would provide no more than one bedroom per family member, taking into account family size and composition.

3. Assignments will comply with the Massachusetts State Sanitary Code which requires that every dwelling unit must provide 150-sq. ft. of floor space for the first occupant and 100-sq. ft. for each additional occupant. Floor space shall be calculated on the basis of total habitable room area.

Total habitable space is the sum of the floor area of the kitchen, living room, dining area and all bedrooms. If the floor to ceiling height is less than 5ft, that floor area less than 5 ft. is not included in the total habitable space.

In a dwelling unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant.

## **V Eligibility for Admission and Suitability Screening**

### **A. Introduction**

This section sets forth initial requirements for a family to be eligible for federal public housing units. Any other requirements of HUD or under state or local law may also be reviewed by the DHA and may be used as a basis for denial for federal public housing. Further, a family meeting initial eligibility criteria is still subject to DHA screening for suitability as a federal public housing tenant and may be denied on the basis of said screening even if the family meets the basic eligibility requirements.

## **B. Initial Qualification of Applicants**

### **1. Definition of a Family**

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

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- (2) A group of persons residing together, and such group includes, but is not limited to:
  - (i) 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);
  - (ii) An elderly family;
  - (iii) A near-elderly family;
  - (iv) A disabled family;
  - (v) A displaced family; and
  - (vi) The remaining member of a tenant family.

At admission the family shall be limited to those listed on the application unless an addition is permitted as set forth in additions to the household as set forth elsewhere within this policy.

### **2. Income Limits**

Eligibility of the applicant with respect to income limits for admission is set forth at 24 CFR 5.603;

To be income-eligible, a family must be a low-income family according to income limits set by HUD.

Further, the DHA complies with HUD's income targeting requirements as set forth in the CFR. Specifically, not less than 40 percent of the families admitted to a DHA's public housing program during the DHA fiscal year from the DHA waiting list shall be extremely low income families.

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

The fiscal year credit for voucher program admissions that exceed the minimum voucher program targeting requirement shall not exceed the lower of:

1. Ten percent of public housing waiting list admissions during the DHA fiscal year;
2. Ten percent of waiting list admission to the DHA's Section 8 tenant-based assistance program during the DHA fiscal year; or
3. The number of qualifying low income families who commence occupancy during the fiscal year of DHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low income family means a low income family other than an extremely low income family.

The Dedham Housing Authority may allow police officers who would not otherwise be eligible for occupancy in public housing to reside in a public housing dwelling unit. Such occupancy must be needed to increase security for public housing residents. Their rent shall at least equal the cost of operating the public housing unit. For purposes of this provision, "police officer" means a person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

### **3. Citizenship or Eligible Immigration Status 24 CFR § 5.500;**

The DHA will verify that all applicants are Citizen or Eligible Noncitizens in accordance with HUD's mandatory regulations. In the event that a family member or family member(s) elect to contend Ineligible Noncitizen status, the family's rent will be prorated accordingly. The provision of this information is a one-time submission requirement and is not required on an annual basis. If a new member is added to the family this information will be required. Hearing provisions regarding restrictions on assistance to noncitizens are covered within the code of federal regulations.

### **4. Social Security Numbers 24 CFR 5.216 and 5.218**

The applicant and all members of the applicant's household<sup>3</sup> must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN.

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

The DHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

In such instances the DHA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the DHA within 90 days.

Finally, if the applicant family contains a household member who is under the age of 6 which has been added to the household within the past six months and has not been assigned a social security number, the applicant shall be provided with a 90 day extension to disclose and verify the child's SSN. The DHA will allow an additional 90 days if it determines that failure to comply was outside the control of the family, or was due to unforeseen circumstances. The DHA must include the child as part of the household during this period and must provide the family with any related benefits such as allowances and deductions.

## **5. Preference Category 24 CFR 5.400;**

Preferences are outlined previously within this ACOP.

## **6. Unqualified Applicants**

Unqualified applicants will be promptly notified by a Notice of Rejection from DHA, stating the basis for such determination and offering an opportunity for Informal Hearing (see Procedure for Informal Hearing within this ACOP). Informal hearings for applicants are different from the

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<sup>3</sup> This does not apply to members that do not contend to have eligible immigration status or tenants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010.

resident grievance process. Applicants are not entitled to use of the resident grievance process 24 CFR 960.208(a).

### **C. Suitability**

#### **1. Screening for Ability to Comply with Essential Provisions of the Lease, HUD Regulations, Family Behavior and Suitability for Tenancy**

All applicants are screened in accordance with HUD's regulations. During screening, the DHA will require applicants to demonstrate ability to comply with essential provisions of the lease as summarized below:

(a) to pay rent and other charges (e.g. utility bills) as required by the lease in a timely manner;

(b) to care for and avoid damaging the unit and common areas;

(c) to use facilities and equipment in a reasonable way;

(d) to create no health, or safety hazards, and to report maintenance needs;

(e) not to interfere with the rights and peaceful enjoyment of others, and to avoid damaging the property of others;

(f) not to engage in criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or staff; and not to engage in drug-related criminal activity; and

(g) to comply with necessary and reasonable rules and program requirements of HUD and the DHA.

#### **2. DHA's Verification of Applicant's Ability to Comply with Essential Provisions of the Lease, HUD Regulations, Family Behavior and Suitability for Tenancy**

The DHA will check ability to comply with essential lease requirements by reviewing the following:

(a) DHA will complete a credit check and a rental history check on all applicants.

(b) Payment of funds owed to DHA or any other housing authority is part of the screening evaluation. DHA will reject an applicant for unpaid balances owed to a HA by the applicant

for any program that a HA operates.

(c) DHA will complete a criminal background check on all adult applicants or any member for whom criminal records are available. Before the DHA rejects an applicant on the basis of criminal history, the DHA must notify the household of the proposed rejection and provide the household member whose criminal history is at issue with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of the record. A Sex Offender Registry Information check will also be performed.

(d) If any screening activity suggests that an applicant household member may be currently engaged in illegal use of drugs, the DHA will allow the applicant the opportunity to provide information from a drug abuse treatment facility to determine whether there is still reasonable cause to believe the household member is currently engaging in illegal drug use. The forum for the provision of this information will generally be at the informal hearing.

(e) DHA will complete a home visit on all applicants to determine if the applicant's housekeeping would create health or sanitation problems. Staff completing the home visit will consider whether the conditions they observe are the result of the applicant's treatment of the unit or are caused by the unit's overall substandard condition.

(f) Housekeeping criteria to be checked shall include, but not be limited to: Conditions in living room, kitchen (food preparation and clean-up), bathroom, bedrooms, entrance-ways, halls, and yard (if applicable); Cleanliness in each room; and General care of appliances, fixtures, windows, doors and cabinets. Other DHA lease compliance criteria will also be checked, such as: evidence of destruction of property; unauthorized occupants; evidence of criminal activity; and conditions inconsistent with application information.

All applicants shall have at least two days' advance written notice of Home Visits.

(g) DHA's examination of relevant information respecting past and current habits or practices will include, but is not limited to, an assessment of the applicant's

- i. Past performance in meeting financial obligations, especially rent and utility bills 960.203 (c)(1).
- ii. History of criminal activity on the part of any applicant family member involving crimes of physical violence to persons or property, or other criminal acts including drug-related criminal activity, that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or development 960.203 (c)(3).
- iii. A record of eviction from housing or involuntary termination from residential programs (taking into account date and circumstances).
- iv. An applicant's ability and willingness to comply with the terms of DHA's lease.

An applicant's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition or rent will result in rejection. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

### 3. Certain Specific Regulatory Grounds for Denial and Termination

(a). The DHA will reject the application of a household if any household member has been evicted from any federally assisted housing for drug-related criminal activity. However, the DHA may admit the household if the DHA determines that:

- (i) The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the DHA, or
- (ii) The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

(b). The DHA will reject the application of a household if the DHA determines that any household member is currently engaging in illegal use of a drug<sup>4</sup>; *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

(c). The DHA will reject the application of a household if the DHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

In determining reasonable cause, the DHA 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, or other evidence of underlying conduct which may or may not have led to an arrest<sup>5</sup>. The DHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

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<sup>4</sup> For purposes of this section a household member is "currently engaged in" the criminal activity if the person has engaged in the behavior within the past 6 months.

<sup>5</sup> A record of arrest(s) alone may not be used to deny a housing opportunity. However, the HA may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the HA has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions decisions. PIH 2015-19

(d). The DHA will reject the application of a household if 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.

(e). The DHA will reject the application of a household if any household member is subject to a lifetime registration requirement under a state sex offender registration program.

(f). The DHA will reject the application of a household if any household member is currently engaged in, or has engaged in<sup>6</sup>, any of the following criminal activities:

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

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

(iii) Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

(iv) Criminal activity that may threaten the health or safety of PHA staff, contractors, subcontractors, or agents.

(v) Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, evictions, or other evidence of underlying conduct which may or may not have led to an arrest<sup>7</sup> for suspected drug-related or violent criminal activity of household members.

(g).The DHA will reject the application of a household if the any member of the family has engaged in previous behavior which would provide indicate the family is not suitable for tenancy. Specifically, if the DHA determines that a member of the household:

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<sup>6</sup> The DHA takes into consideration the nature and severity of the crime and the amount of time since the criminal conduct has occurred as part of the analysis in relation to a proposed denial of housing.

<sup>7</sup> A record of arrest(s) alone may not be used to deny a housing opportunity. However, the HA may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the HA has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions. PIH 2015-19



- (i) Has a pattern of unsuitable past performance in meeting financial obligations, including rent, within the past five (5) years.
- (ii) Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety, or welfare of other tenants.
- (iii) Has a pattern of eviction from housing or termination from residential programs.
- (iv) Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program.
- (v) Misrepresented or does not provide complete information related to eligibility, including income, preferences for admission, expenses, family composition or rent.
- (vi) Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- (vii) Has engaged in or threatened violent or abusive behavior toward PHA personnel.

*Abusive or violent behavior towards PHA 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 DHA reserves the right to deny assistance based upon any other grounds not stated herein which are permissible by law.

#### **4. Mitigating Circumstances**

(a) If negative information is received about an applicant, DHA shall consider the time, nature, and extent of the applicant's conduct (including seriousness of the offense) and to factors that might indicate a reasonable probability of favorable future conduct. To be considered, mitigating circumstances must be verifiable 960.203 (d).

(b) Mitigating circumstances are facts relating to the applicant's negative rental history or behavior, that, when verified, indicate: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, and applicant's prospect for lease compliance is an acceptable one, justifying admission. Mitigating circumstances would overcome or outweigh information already gathered in the screening process.

(c) If the applicant asserts that mitigating circumstances relate to a change in disability, medical condition or treatment, DHA shall refer such information to persons qualified to evaluate the evidence and verify the mitigating circumstance. DHA shall also have the right to request further information to verify the mitigating circumstance. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

Examples of mitigating circumstances might include 960.203 (d):

- (i) Evidence of successful rehabilitation;
- (ii) Evidence of the applicant family's participation in social service or other appropriate counseling service; or
- (iii) Evidence of successful and sustained modification of previous disqualifying behavior.

Consideration of mitigating circumstances does not guarantee that applicant will qualify for admission. DHA will consider such circumstances in light of:

- (i) the applicant's ability to verify the mitigating circumstances and prospects for improved future behavior;
- (ii) the applicant's overall performance with respect to all the screening requirements; and
- (iii) the nature and seriousness of any criminal activity, especially drug related criminal activity that appears in the applicant's record.

## **VI. Informal Hearing Procedures**

The DHA will inform applicants denied Public Housing an Informal Hearing as required under 24 CFR 960.208 (a). The purpose of this Informal Hearing is to allow the applicant to present evidence to the contrary to the reason they were rejected if available, and to claim mitigating circumstances if applicable. The DHA shall offer and informal hearing to applicants denied the opportunity to be placed on the DHA Waiting List, Denied a Preference or Priority as stated within the ACOP, denied Admission or if an Applicant or Public Housing tenant denied a Reasonable Accommodation.

### **A. Right to an Informal Hearing**

Applicants who are determined Ineligible for Admission, issued a Notice of Withdrawal (based upon ineligibility and not failure to respond), denied Preference(s), or denied a reasonable accommodation<sup>8</sup> by the HA will be sent a notice which:

(a) Informs the Applicant of the reason(s) for Ineligibility, withdrawal or denial of Priority status or Preference(s);

(b) Advises the Applicant of his/her right to contest the decision in an informal hearing provided a written request for a is received within twenty (20) calendar days of the date the Notice of Denial is issued. The request must be in writing and must state clearly the basis for requesting the informal hearing and be sent to the address provided on the notice;

(c) Advises the Applicant of his/her right to contest the CORI information in accordance with Federal and/or State law if that is the basis for determination of Ineligibility<sup>9</sup>;

(d) Advises the Applicant that if s/he has a disability that the disclosure of such condition may lead to the consideration of Mitigating Circumstances and/or a Reasonable Accommodation, if related to the disability. (If s/he requests a Reasonable Accommodation at the time of or after requesting an informal hearing or grievance hearing as applicable, the hearing officer or individual performing the informal hearing will make the decision regarding the accommodation);

(e) Advises the Applicant that if s/he has been the victim of Domestic Violence, Dating Violence, or Stalking, that such situations could be considered as Mitigating Circumstances. (If s/he requests consideration of Mitigating Circumstances at the time of or after requesting an informal review, the hearing officer at the hearing will make the decision regarding the circumstances);

(f) Provides a description of the HA's informal hearing process and advises Applicants that they have the right to be represented by an attorney or other individual at the informal hearing, have the right to review the contents of their file in advance of the hearing, and the right to submit additional documents and evidence and to testify at the review.

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<sup>8</sup> In cases where the underlying matter involving the request for a reasonable accommodation warrants grievance process rights such as termination of the lease, the manner of appeal for the denial of a reasonable accommodation request will be those under the DHA grievance policy.

<sup>9</sup> The denial based upon CORI will be made only after the mitigation letter has been sent to the applicant providing with them the opportunity to dispute the CORI. See DHA CORI policy.

## **B. Time to Request an Informal Hearing**

The time to request an informal hearing shall be twenty (20) days from the date of notice of withdrawal, denial of assistance to the Family, denial of Preference, denial of a place on the appropriate waiting list, or denial of Public Housing, except in Non-Citizen Rule cases where the time period shall be thirty (30) days from the date of the notice of denial of assistance for any Family member.

## **C. Scheduling the Informal Hearing**

When the HA receives the Applicant's written request HA will schedule an informal hearing.

(a) Notice of Informal Hearing. The HA will notify the Applicant in writing of the date, time and place of the review. The HA will send the notice to the Applicant's address of record. The notice shall also state the Applicant's rights to present evidence and testify, hearing their file, request a Reasonable Accommodation and right to be represented by an attorney or other individual at the review. The hearing shall be held at a convenient time and at an accessible location for the Applicant and the HA.

If an Applicant requests a Reasonable Accommodation at the time of or after requesting an informal hearing, the individual performing the informal hearing will make the decision regarding the accommodation.

(b) Default. The HA will withdraw an Applicant from the waiting list if the Applicant does not attend the informal hearing.

## **D. Applicant Rights during the Informal Hearing**

During the informal hearing, the HA will put forth its evidence in support of a determination of Ineligibility, Withdrawal, or denial of Preference(s). The Applicant will have an opportunity to present evidence and testimony rebutting the basis for the HA's determination.

## **E. Due Process Requirements**

The informal hearing will conform to the following due process requirements:

(a) A person who did not participate in the original decision or subordinate of the person must conduct the review.

(b) The hearing officer must base the decision solely on evidence presented at the hearing as well as any evidence previously received by the HA.

(c) The Applicant and/or his/her representative has a right to inspect the file prior to the review, provided the Applicant provides the HA with written authorizations permitting the representative to have access to the contents of the Applicant's file and/or CORI.

(d) Either the Applicant or the HA may request after close of the hearing that the record remain open for a reasonable time for submission of new evidence. At the discretion of the hearing officer. Written notice of the record being held open, and the date the record will close will be given to the Applicant and kept in the HA case file.

## **F. Informal Hearing Decisions**

After the informal review, all Applicants will be sent an "Informal Hearing Decision" from the HA hearing officer. This notice shall:

- (a) Provide a summary of the review;
- (b) Provide the decision of the hearing officer, together with findings and determination;
- (c) Provide an explanation of the regulations and/or other applicable provisions utilized in making the decision;

### **1. Reversal of HA's Determination of Ineligibility**

If the Hearing Officer reverses the determination to deny the Applicant assistance or Preference status, the application will return to its appropriate place on the waiting list(s) for all programs previously selected by the Applicant. The HA will restore the status or position in accordance with the determination.

### **2. Confirmation of the HA's Determination of Ineligibility**

If the decision upholds the determination of Ineligibility, the Applicant will be denied Public Housing or other requested action such as provision of preference or reasonable accommodation.

## **VII. Leasing Policies**

### **A. General Leasing Policy**

1. All units must be occupied pursuant to a lease that complies with HUD's regulations 24 CFR § 966.
2. The lease shall be signed by the head, spouse, and all other adult members of the household and by the Executive Director or other authorized representative of DHA, prior to actual admission 24 CFR 966.4 (p).
3. If a resident transfers from one HA unit to another, a new lease will be executed for the dwelling into which the family moves.
4. If at any time during the life of the lease agreement, a change in the resident's status results in the need for changing or amending any provision of the lease or if the DHA desires to waive any provision with respect to the tenant, either:
  - (a) A new lease agreement will be executed, or
  - (b) A Notice of Rent Adjustment will be executed, or
  - (c) An appropriate rider will be prepared and made a part of the existing lease.  
All copies of such riders or insertions are to be dated and signed by the Resident and by the Executive Director or other authorized representative of DHA 24 CFR 966.4 (o). A copy will be provided to the resident and a copy maintained in the DHA file.
5. If, through any cause, the signer of the lease ceases to be a member of the tenant family, the lease is to be voided and a new lease agreement executed and signed by a responsible remaining member of the family, provided the family is eligible.
6. Cancellation of the tenant's lease is to be in accordance with the provisions of the tenant lease and state law.
7. Resident shall give prompt prior written notice to the Authority of Tenant's leaving dwelling unit unoccupied for any period exceeding two calendar weeks. In such instances, residents shall notify the manager, secure the unit and provide a means for DHA to contact the resident in an emergency. Failure to advise DHA of an extended absence is grounds for termination of the lease.

### **B. Showing Units Prior to Leasing**

1. When offering units, the DHA will provide the applicant with a brief property description and other information to help orient the applicant to the neighborhood and location in the property. If

the offer of a unit is preliminarily accepted by the applicant, the manager of the property will contact the applicant to set up a date to show the unit.

2. Once the unit is shown and the applicant accepts the unit, the HA will execute a lease. If the applicant refuses the unit, a signed reason for refusal should be obtained from the applicant. The refusal form is then reviewed by the Executive Director or his or her designee.
3. No lease will have an effective date before the unit is ready for occupancy.

### **C. Additions to and Removals from Household and Visitors**

Only those persons listed on the most recent lease shall be permitted to occupy a dwelling unit 24 CFR §§ 960.203 (c) and 966.4(a)(1)(v)

- Except for births, adoptions, or court awarded custody, any family seeking to add a new member must request approval in writing before the new member moves in. In these instances the family must still report the change in composition immediately to the HA.
- All persons listed on the most recent certification form and the lease must use the dwelling unit as their sole residence.

Any additions to the household members named on the Lease including personal care attendants and foster children, except for birth, adoption, or court awarded custody, require the advance written approval of the Authority.

Such approval will be granted only if the new household members provide the set of information required on an Application for Housing and pass the Authority's screening criteria and a unit of the appropriate size is available, and the HA approves the addition to the household under any other terms herein. Permission to add personal care attendants and foster children shall not be unreasonably refused.

Tenant agrees to wait for the Authority's approval before allowing additional persons to move into the premises. Failure on the part of Tenant to comply with this provision is a serious violation of the material terms of the Lease, for which the Authority may terminate the Lease. Tenant shall supply such documentation as may be required to affect change in family composition/income.

When a resident requests approval to add a new person to the lease, DHA will conduct pre-admission screening of any proposed new adult member to determine whether the DHA will grant such approval.

Children are exempt from the pre-admission screening process, although the resident still needs prior permission from DHA to add children other than those born to, adopted by or awarded by the court to the family.

Additions to the household other than those required by law and listed herein will not be permitted unless it is determined that the move is essential for the mental or physical health of the tenant and it does not disqualify the household for the size of unit it is currently occupying.

The HA may also permit a move into the unit if the proposed additional family member has lived with assisted family within the past or is presently in a relationship determined to be stable by the DHA. The DHA will review the following to determine if the relationship meets this criteria:

The addition should have a stable interdependent relationship with a current household member (i.e. the parties have provided financial support for each other). Documentation of a stable interdependent relationship may include lease agreements indicating that the parties lived together, utility bills, other joint bills and/or bank account(s) (need to provide for a 6-month period), and, on a case-by-case basis, letters from a social service provider or religious or others confirming the relationship. The Housing Authority will consider other evidence of stable relationship presented by the family on a case by case basis. The Authority shall make this determination without regard to actual or perceived sexual orientation, gender identity, marital status<sup>10</sup>, race, color, national origin, sex, religion, familial status, or disability.

The addition will not be permitted if it disqualifies the household for the size of unit it is currently occupying.

Residents who fail to notify DHA of additions to the household or who permit persons to join the household without undergoing screening are violating of the lease. Persons added without DHA approval will be considered unauthorized occupants and the entire household will be subject to eviction 24 CFR 966.4 (f)(3).

Deletions (for any reason) from the household members named on the Lease shall be reported by Tenant to the DHA in writing, within 10 days of the occurrence.

The lease will not automatically be revised to allow adult children (over 21) to move back into the unit unless it is determined that the move is essential for the mental or physical health of the tenant and/or it does not disqualify the household for the size of unit it is currently occupying.

Guests may be permitted in a dwelling unit so long as they have no previous history of behavior on DHA premises that would be a lease violation. A guest may reside in the unit for a period not exceeding twenty-one (21) days each twelve month period but all guests must be reported to

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<sup>10</sup> It should be noted that voluntary provision of information with regard to marital status may be considered evidence of a stable relationship this is not a required criteria.



the manager. Permission may be granted, upon written request to Dedham Housing Authority, for an extension of the visitation period. For purposes of this part, the term "guest" means a person not a member of any other household in the development who is on the site or in the leased unit with the knowledge and consent of head of household or other adult household member.

Roomers and lodgers shall not be permitted to move in with any family. Violation of this provision is ground for termination of the lease 24 CFR § 966.4 (f)(2).

Residents will not be given permission to allow a former resident of DHA who has been evicted to occupy the unit for any period of time. Violation of this requirement is ground for termination of the lease.

## **D. Live-in Aide**

A live-in aide is not required to have citizenship or eligible immigration status. The aide must, however, provide a valid (unexpired) photo identification card that at a minimum indicates the aide's name and birth date. If the photo identification is not of government issue, the aide must also provide one additional form of identification. Identification documents must be attached to any request for a criminal history check.

For information concerning the appropriate family unit size when the HA has approved a live-in aide for a family see Section addressing Occupancy Standards within this ACOP.

### **1. Approval of a Live-in Aide**

A live-in aide is a person who resides with a person or persons who are elderly, near elderly, and/or have a disability [24 CFR 5.403].

The live-in aide:

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

The HA may approve a live-in aide for a family upon verification of need by a qualified health care or service provider subject to 3. Refusal to Approve a Live-In Aide, of this ACOP.

### **2. Requirements**

The HA provides an additional bedroom to the family unit size to accommodate an approved live-in aide. In order for a family to receive a voucher with an additional bedroom for a live-in aide, the aide must:

- Personally appear at the HA offices;
- Provide a picture ID;
- Complete a certified statement indicating that the assisted unit shall be the aide's primary residence and that the individual meets the regulatory definition of a live-in aide;
- Sign a Family Obligations statement separately from the family members; And
- Undergo a criminal history check and any other procedures required by the Administrative Plan to determine whether the aide should be allowed in the household.

The HA shall not issue a voucher of a larger bedroom size to accommodate a live-in aide unless and until an aide has met the above requirements and has passed a criminal history check.

### **3. Refusal to Approve a Live-in Aide**

The HA may refuse to approve or may withdraw its approval of a particular person as a live-in aide for the reasons indicated in 24 CFR part 960, or if the live-in aide (a member of the household) is barred from participation in assisted housing programs for any of the reasons stated (and in accordance with the time frames expressed) within the sections covering denial and termination of assistance.

At any time HA can refuse to approve, or withdraw approval of, a live-in aide if:

- 1) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; or
- 2) The person commits drug-related criminal activity or violent criminal activity; or
- 3) The person currently owes rent or other amounts to the HA or to another Public Housing Agency (PHA) in connection with Section 8 or public housing assistance under the 1937 Act; or
- 4) The person fails to comply with HA requirements for a live-in aide including the requirements contained in this ACOP.

The HA may require a participant to terminate the services of a particular live-in aide as a condition of continued assistance or may require an applicant to terminate the services of a particular live-in aide as a prerequisite to approving addition to the household or live in aide occupancy in the unit.

Any refusal or withdrawal of approval will be in writing and will allow the applicant or participant a thirty day period in which to locate a replacement aide.

## **E. Foster Child and Adult**

A foster child /adult is a person 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 families in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

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

The family may add foster children/adults to the household as long as it does not overcrowd the unit based on the PHA's occupancy standards.

Approval of a foster child will generally be granted if:

- (1) The Department of Social Services has verified that such is an official foster care placement;
- (2) No extenuating circumstances which would lead the Housing Authority to believe the addition of the foster child would be inappropriate, and;
- (3) Documentation of the above is provided and verified by the Housing Authority.

## **F. Residual Tenancy Policy and Family Break up**

There is no automatic right to leasehold succession under the CHA Public Housing program.

When the original lessee dies or departs the unit, then the remaining family members constitute a family and are eligible for continued assistance, if:

There is at least one household member of legal age and capacity to execute the lease living in the household who meets the eligibility screening criteria, and

There are no rent defaults or criminal activity violations,

The remaining family members had been previously authorized to occupy the unit, and

The household meets CHA eligibility and screening criteria.

The decision on whether to renew or affirm the tenancy, by executing a new lease with a remaining family member who possesses legal capacity, is a discretionary management determination by the CHA.

The Housing Authority is bound by the court's determination if a court determines the disposition of property between members of the assisted family in a divorce or separation decree.

When no such court determination has been made, the Housing Authority shall determine which members of an assisted family will continue to remain on the Public Housing Waiting List if an applicant family breaks up. In making this determination, the HA shall consider the interests of all family members. The HA will decide which family member remains in the unit on a case by case basis, and the following factors may be included in the Housing Authority's decision:

- (1) – the interests of any minor child/children;
- (2) – the interests of ill, elderly, or disabled family members;
- (3)- whether family members were forced to leave the unit as a result of actual or threatened physical violence, by a spouse or other member of the household, (the HA shall take this factor into consideration regardless of whether the individual(s) leaving the unit are the victim or the perpetrator) and any applicable provisions under the Violence Against Women Act.
- (4) – family members remaining in the original assisted unit;
- (5) - if the sole remaining members of the household are all minors, an adult guardian of such minor children may be added to the family composition as the new "head of household" provided he/she is otherwise eligible and meets DHA screening criteria and;
- (6) - any other factors which in the discretion of the Housing Authority will affect the fairness and reasonableness of the determination.

In all such instance it is the responsibility of the family to bring to the attention of the Housing Authority that the family has in fact broken up and a determination as to which members shall remain on the program is to be made by the HA.

## **G. Use of the Unit**

The primary function of the dwelling unit is residential in nature. With the prior written consent of the DHA, members of the household may engage in legal profit making activities within the dwelling unit where the Tenant has described such proposed activity in writing to the Authority, and it has determined that the described activities are legal and shall be incidental to the primary use of the premises as a residence. Legal business activities which result in excessive foot traffic and impinge on the quiet and peaceful enjoyment of the development by other residents will not be approved. Businesses whose growth result in excessive foot traffic or a level of activity that impinges on the quiet and peaceful enjoyment of the development by other residents will be given a reasonable amount of time to relocate but in no event longer than six (6) months.

## **H. Inability to Comply with Lease Terms**

At the time of admission, all Tenants must identify the family member(s) to be contacted if they become unable to comply with Lease terms. If, during the term of the Lease the Tenant by reason of physical or mental impairment is no longer able to comply with the material provisions of the Lease, and cannot make private arrangements for someone to aid him/her in complying with the Lease, and the DHA cannot make any reasonable accommodation that would enable Tenant to comply with the Lease then, the DHA shall assist Tenant or designated member(s) of Tenant's family, to find more suitable housing and terminate Tenant's Lease. If there are no family members who can or will take responsibility for moving the Tenant, the DHA will work with appropriate agencies to secure a suitable residential placement and will terminate the Lease. If a Tenant demonstrates an inability to comply with the terms of the Lease and refuses assistance to secure more appropriate shelter, the Authority will instigate eviction proceedings in accordance with the Lease and DHA eviction procedures.

## **VIII. Verification**

### **A. Verification**

The HA will verify information through the six methods of verification, acceptable to HUD, in the following ranking order:

1. Enterprise Income Verification (EIV)
2. Upfront Income Verification (UIV) using non-HUD systems
3. Third-party written (may be provided by the family)
4. Third party form written
5. Third-party oral (in person or via telephone directly from the third party)
6. Certification/self-declaration

### **B. Methods of Verification**

#### **1. Enterprise Income Verification (EIV)**

##### **(i) Introduction**

The HA's first choice is Enterprise Income Verification (EIV) as required in accordance with the HUD regulations as issued in the final rule Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System Amendments (74 FR 68924).

The HA is required to use the EIV system as a (primary) source to verify tenant income information during all mandatory annual and interim reexaminations.

The Housing Authority has adopted as its Enterprise Income Verification Policy those requirements in the Enterprise Income Verification System User Manual and Security and Procedures Guide that are mandated as necessary and required by the HUD regulations relative to Earned Income Verification, and as said regulations and guides may be amended from time to time. This serves to specify the Housing Authority's (HA) security procedures concerning the data downloaded from the Enterprise Income Verification System (EIV).

The EIV system is a web based application which provides the HA with employment, wage, unemployment compensation and social security benefit information of tenants participating in the Public Housing program. HUD's computer system is matched against that of agencies such as the Social Security Administration and the US Department of Health and Human Services.

The information is only be used to verify a tenant's eligibility for participation in HUD's rental assistance program and to determine the level of assistance the tenant is entitled to receive.

Data obtained through EIV system will be compared to family reported information utilizing the verification hierarchy contained herein. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference (\$2400 or more annually) in the reported income information the DHA will obtain further third party documentation in accordance with the hierarchy contained in this ACOP. (The DHA is always required to request written third party verification when the tenant disputes EIV information and is unable to provide acceptable documentation to support his/her dispute)

If there is a discrepancy, once the HA has verified and validated the income discrepancy, the HA will calculate the tenant retroactive rent due, if any, and initiate a repayment agreement and/or take other corrective action.

When EIV is obtained and the family does not dispute the EIV employer data, the PHA will generally use current tenant-provided documents to project annual income.

The HA will obtain additional third-party verification in accordance with the verification requirements below (i.e. written/oral) in the following cases:

1. If EIV or other UIV data is not available,
2. If the family disputes the accuracy of the EIV employer data, and/or
3. If the PHA determines additional information is needed.

## **(ii) EIV File Documentation to Verify Tenant Employment and Income Information**

For each new admission, the PHA is required to do the following:

- Review the EIV Income Report to confirm/validate family-reported income within 120

Days of the PIC submission date; and

- Print and maintain a copy of the EIV Income Report in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income report date.

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 HA), 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 HA), traditional third party verification form(s).

### **(iii) Security Personnel**

The Executive Director has appointed a Security Officer to supervise and enforce the security procedures. The Security Officer's responsibilities include keeping records, logs and monitoring EIV security issues. The Security Officer reads and disseminates training materials, and trains the appropriate departmental staff concerning the handling of files containing EIV data. These materials will be disseminated prior to working with the EIV data.

Access to EIV data is limited to persons whose duties or responsibilities require access. The level of access will also be limited to the functional areas of specific users as required. Any staff member who may need access or may need to have their status revoked will be reported to the Security Officer. If there is any unauthorized use of the system, the Security Officer will notify the Executive Director immediately and secure documentation of any security violation. The Executive Director or his designee shall notify the HUD Field Office PIH Director of any known unauthorized use of the system.

### **(iv) Enterprise Income Verification Files**

Information from Enterprise Income Verification websites will be downloaded only with a signed HUD Form 9886 Release Waiver, signed by each Household member 18 years of age or older, on file. The data pertaining to only one family will be maintained in a file. This data will be maintained in the same confidential manner as all tenant data.

The general public does not have access to the room where confidential data are maintained unless accompanied by HA staff. Visitors are always escorted by HA staff in all areas that may contain confidential data.

#### **(v) Enterprise Income Verification Computer Files**

Computerized data is handled in the following manner:

1. Data downloaded from the Enterprise Income Verification system will not be saved to a hard drive.
2. If the information is saved to a local drive (recordable disc), then it must be kept separately from all HA data.
3. Any disk must be marked "Confidential."
4. Specific computers in locked areas will be used to access EIV data.
5. When possible, one printer in each office will be designated to print EIV data.
6. Printouts of EIV data will be collected from the printer immediately.

#### **(vi) Destruction of Enterprise Income Verification Data**

The EIV data will be maintained in accordance with the DHA's record retention policy. Any miscellaneous or duplicate copies printed will be shredded.

### **2. Upfront Income Verification (UIV) using non-HUD Systems**

In addition to the EIV System the DHA may use other up-front income verification sources to verify participant income. UIV meets the regulatory requirement for third-party verification. UIV is an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. Examples on non-HUD UIV systems are the work number and state government databases.

### **3. Third-party written (may be provided by the family)**

Written third-party verification is an original document generated by a third-party source, dated within 60 days of the reexamination or HA request date.

The Housing Authority requires that documents be original and authentic. They may be supplied by the family or received from a third party source.

Examples of acceptable third-party documents provided by the family include:

- pay stubs
- payroll summary reports



- employer notice or letters of hire or termination
- SSA benefit verification letters
- bank statements
- child support payment stubs
- welfare benefit letters or printouts
- unemployment monetary benefit notice
- Veterans Administration letters
- Retirement Benefit Letters
- Investment Company Statement
- City or County Court orders
- Life Insurance Company Statement
- Investment Group Statement

The HA requires at minimum, three current and consecutive pay stubs for determining annual income from wages.

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

Information verified on the internet is considered by the HA to be written third-party verification if the HA is able to view and print web-based information from a reputable source on the computer screen.

#### **4. Third Party Form**

A written third party verification form is a standardized form which will be used to collect information from a third-party source when

1. There is no UIV information available and the participant has no written third-party documentation to support their reported income or the PHA has rejected the third party verification or
2. There is an unreported source of income or a substantial difference in reported income (\$2400 annually or more) and there are no UIV or third party documents provided by the family to support the income discrepancy.

Third-party written verifications must be received directly from the third parties. The family will be required to sign an authorization for release of information to allow the third parties to release the requested information. Verifications received from the third party electronically via computer e-mail, by fax machine, via an on-line database system, or directly from the source, are considered by the HA to be written third party verifications.

## **5. Oral Third Party Verification**

If a DHA has requested a written third-party verification form and has not received a response within a reasonable period of time, or if written third party verification is not possible, the DHA will attempt oral third-party verification

When a third-party oral verification is used, HA staff to note in the file:

- the name of the person contacted
- the date of the conversation, and the facts provided.

## **6. Tenant Declaration**

If it is not possible to contact the third party by telephone due to either the agency's documented policy of not releasing information over the telephone, or unavailability of the third party, the HA will note the file and proceed to the next ranking verification source, Self Certification.

A notarized family certification will be accepted when no other form of verification is available. With this method of verification, an applicant or participant submits an affidavit or notarized statement to certify income or expenses that she or he has reported. A notarized self-certification means a family signed and dated affidavit/certification/statement under penalty of perjury in the presence of a notary public.

The family may be required to certify that they do not receive a particular benefit or type of income.

## **7. Exceptions to Third Party Verification Requirements**

In some situations third party verification is not available (i.e. the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal). In these cases, the HA will document in the family file the reason(s) why third party verification was not available. (See 24 CFR 960.259(c)(1) and §982.516(a)(2))

## **8. Fraud and Program Abuse and Verification**

The family must not make a false statement to the DHA [Title 18 U.S.C. Section 1001]; provide incomplete or false information to the DHA [24 CFR 960.259(a)(4)] or commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

Use of a false name or the use of falsified, forged, or altered documents, intentional misreporting of family information or circumstances such as with regard to income or family composition or omitting facts that were obviously known by a family member such as not reporting employment income or changes in household composition are examples of program abuse.

When the HA determines that a family has engaged in program abuse the HA will take corrective action. This may be repayment in full up front, a repayment agreement or termination of the lease and collection of funds. The action taken by the HA will be dependent upon the facts and circumstances of the case.

### **C. Length of Time Verification Is Acceptable**

Unless otherwise noted herein, for applicants, verifications may not be more than 60 days old at the time of lease up. For annual examination, verifications are valid for 120 days from date of receipt.

## **IX. Determination of Total Tenant Payment and Tenant Rent**

The Tenant must provide the Authority with accurate information about: household composition, age of household members, income and source of income of all household members, assets, and related information necessary to determine eligibility, annual income, adjusted income and rent. Information must be verified in the manner determined by HUD.

Tenant agrees to comply with Authority requests for verification by signing releases for third-party sources, presenting documents for review, or providing other suitable forms of verification. The DHA shall give Tenant reasonable notice of what actions Tenant must take to provide the requested information and of the date by which any such action must be taken for compliance under this section. This information will be used by the Authority to decide whether the amount of the rent should be changed, and whether the dwelling size is still appropriate for Tenant's needs.

This determination will be made in accordance with the Admissions and Continued Occupancy Policy (ACOP) and HUD regulations. Failure to supply requested information is a breach of the terms of the Lease and can lead to loss of subsidy to the household and subsequent eviction.

### **A. Choice of Method**

At admission and each year in preparation for their annual reexamination, each family is given the choice of having their rent determined under the income method or having their rent set at the flat rent amount.

A. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they would otherwise undergo if they so choose.

B. Families who opt for the flat rent may request to have a reexamination and return to the income based method at any time if circumstances creating a hardship on the family such that the income method would be more financially feasible for the family exist. Examples that would be considered hardships include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance.
- The family has experienced an increase in expenses for medical costs, child care, transportation, education, or similar items.

Families have only one choice per year except for financial hardship cases. In order for families to make informed choices about their rent options, the DHA will provide them with the following information whenever they have to make rent decisions:

The dollar amount of tenant rent for the family under each option. If the family chose a flat rent for the previous year, the DHA will provide the amount of income-based rent for the subsequent year only the year the DHA conducts an income reexamination or if the family specifically requests it and submits updated income information. See Flat Rent below for detailed information.

## **B. The Income Method**

The total tenant payment is equal to the highest of:

- A. 10% of the family's monthly income;
- B. 30% of the family's adjusted monthly income; or
- C. If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated. If the family's welfare assistance is ratably reduced from the standard of need by

applying a percentage, the amount calculated under this provision is the amount resulting from one application of the percentage; or

D. The minimum rent is \$50 unless an exception is granted for hardship.

## **C. The Flat Rent**

### **1. Setting the Flat Rent**

The DHA has set a flat rent for each public housing unit. In doing so, it considered the size and type of the unit, as well as its age, condition, amenities, services, and neighborhood.

In order to comply with the flat rent requirements annually, no later than 90 days after the effective date of new FMRs or SAFMRs published by HUD, the DHA will:

Compare the current flat rent amount to the applicable FMR and SAFMR/unadjusted rent. If the flat rent is at least equal to the lower of a or b below no further steps are required:

- a. 80 percent of the FMR, or
- b. 80 percent of the SAFMR (or if no SAFMR available, 100 percent of unadjusted rent).

If the current flat rent is less than the lower of option a or option b above, the DHA must set flat rents at no less than 80 percent of the lower of the 80 percent FMR or 80 percent SAFMR/100 percent unadjusted rent, subject to the utilities adjustment in Section 6 of PIH 2017-23. In the alternative the DHA may consider requesting an exception flat rent pursuant to the requirements of Section 5 of this Notice PIH 2017-23.

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### **2. Notification to Families**

The DHA permit the family to choose between the flat rent amount and the income-based rent for all new admissions. The DHA will offer the updated flat rent amount at the next annual rent option for families that are current Public Housing residents, and permit the family to choose between the flat rent amount and the income-based rent.

Affected families will be given a 30-day notice of any rent change. Adjustments are applied on the anniversary date for each affected family.

If an existing flat rent tenant's rental payment prior to any applicable adjustments for utilities payments increases by more than 35 percent as a result of changes to the flat rent amount, the increase must be phased-in such that a family does not experience an increase in their rental

payment of more than 35 percent. To the extent it is required under federal guidance in effect at the time, the phase-in requirements in Section 8 of PIH 2017-23 shall apply where applicable.

At lease renewal a letter is sent to the family providing the choice between a flat or an income based rent. The opportunity to select the flat rent is available only at this time. At recertification, the DHA may assist the family in identifying the rent method that would be most advantageous for the family. If the family wishes to select the flat rent method without meeting with the DHA representative, they may make the selection on the form and return the form to the DHA.

The annual letter to flat rent payers regarding the reexamination process will state the following:

- A. Each year at the time of the annual reexamination, the family has the option of selecting a flat rent amount or having their rent based on the income amount.
- B. The amount of the flat rent and the income based rent.
- C. A fact sheet about income rents that explains the types of income counted, the most common types of income excluded, and the categories of allowances that can be deducted from income.
- D. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they otherwise would undergo if they so choose
- E. Families who opt for the flat rent may request to have a reexamination and return to the income based method at any time if circumstances creating a hardship on the family such that the income method would be more financially feasible for the family exist. Examples that would be considered hardships include:
  - The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance.
  - The family has experienced an increase in expenses for medical costs, child care, transportation, education, or similar items.

Once a family returns to the income based method during their "lease year" they cannot go back to a flat rent until their next regular annual reexamination

- H. A certification for the family to sign accepting or declining the flat rent.

### **3. Hardship Policy**

Families who opt for the flat rent may request to have a reexamination and return to the income

based method at any time if circumstances creating a hardship on the family such that the income method would be more financially feasible for the family exist. Examples that would be considered hardships include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance.
- The family has experienced an increase in expenses for medical costs, child care, transportation, education, or similar items.

If the DHA determines that the family is unable to pay the flat rent because of financial hardship, the DHA will immediately allow the requested change to income-based rent. The DHA will make the determination within 30 days after the family request and provision of all requested supporting documentation.

Once a family returns to the income based method they cannot go back to a flat rent until their next regular annual reexamination.

## **D. Rent for Families under the Noncitizen Rule**

Families containing one or more members who do not possess eligible immigration status under HUD's rule governing restrictions on assistance to noncitizens will receive continued assistance or prorated assistance according to the terms and conditions in the federal regulations governing these formulas for assistance.

## **E. Utility allowance**

### **1. DHA Supplied Utilities:**

If so indicated within the lease, the DHA will supply the indicated utility. The Authority will not be liable for the failure to supply utility service for any cause whatsoever beyond its control. As part of the rent, the Authority will supply water and sewer service to all units. The Authority reserves the right to charge-back to the resident excessive utility usage. The standard for determining excessive usage is the schedule of Utility Allowances. The Authority will not be liable for the failure to supply utility service for any cause whatsoever beyond its direct control.

Excess Utility Charges - At developments where utilities are provided by the DHA and are metered at the unit level, a charge shall be assessed for excess utility consumption. Charges for excessive utility usage are determined in relation to the Utility Allowance Schedule. These charges do not apply to any utilities paid directly to the supplier by the tenant.

The DHA shall provide written notice of the amount of any charge in addition to Tenant Rent, and when the charge is due. If the charge is made prior to the 15th day of the month, it will be due with the next month's rent payment. If the Charge is made after the 15th day of the month, it will be due with the rent due for the 1<sup>st</sup> of the second month following the charge.

## **2. Tenant Paid Utilities:**

If Tenant resides in a development where the Authority does not provide all utilities, an Utility Allowance shall be established, appropriate for the size and type of dwelling unit for any utility which the Tenant pays directly to the utility supplier. The Total Tenant Payment less the allowance for utilities equals Tenant Rent. The DHA may change the Allowance based on an analysis of cost and usage at any time during the term of the Lease, and shall give Tenants a full 30 day's written notice of the revised allowance schedule along with any resultant changes in Tenant Rent. If Tenant's actual utility bill exceeds the allowance for utilities, Tenant shall be responsible for paying the actual bill to the supplier. If Tenant's actual utility bill is less than the allowance for utilities, Tenant shall receive the benefit of such saving.

## **3. Tenant Utilities Responsibilities:**

Tenant agrees not to waste the utilities provided by the Authority and to comply with any applicable law, regulation, or guideline of any governmental agency regulating utilities or fuels. Tenant also agrees to abide by any local ordinance or Dedham Housing Authority rules restricting or prohibiting the use of space heaters in multi-dwelling units. Use of any resident purchased heating equipment should be reviewed with the Authority prior to its installation and use. The purpose of this review is to determine if the equipment meets code and safety requirements.

## **F. Other Charges**

In addition to rent, Tenant is responsible for the payment of certain other charges specified in the Lease. The type(s) are specified in the Lease Agreement. Other charges can include maintenance costs which are the cost for services or repairs due to intentional or negligent damage to the dwelling unit, common areas or grounds beyond normal wear and tear, caused by Tenant household members or by guests. When the Authority determines that needed maintenance is not caused by normal wear and tear, Tenant shall be charged for the cost of such service based on the actual cost to the Authority for the labor and materials needed to complete the work.



## **X. Minimum Rent Policy**

### **A. Minimum Rent Policy**

The Public Housing Reform Act of 1998 includes a provision for the establishment of minimum rents to be paid by resident of public housing. This provision permits housing authorities administering the program to set a minimum rent requirement between \$0.00 and \$50.00 per month.

Due to the reduction of funding and in response to recommendations from the Secretary of the U.S. Department of Housing and Urban Development (HUD), the Housing Authority has established a minimum rent of \$50.00 per month for the Public Housing program.

### **B. Exemptions from the Minimum Rent Requirement**

To be considered for an exemption from the minimum rent requirement a tenant must demonstrate that it is experiencing a financial hardship due to an unexpected or unprecedented economic burden on the family. (The voluntary loss of income, or voluntary continued loss of income, does not necessarily qualify a family for the financial hardship exemption from minimum rent.)

Only the following situations shall qualify for the exemption:

- When the family has lost eligibility for, or is awaiting an eligibility determination from a federal, To state or local assistance program, including a family having a non-citizen household member lawfully admitted for permanent residence and who would be entitled to public benefits except for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
- When the family would be evicted as a result of the imposition of the minimum rent requirement.
- When the family income has decreased due to changed circumstances, including involuntary loss of employment.
- When the family has an increase in expenses due to changed circumstances, such as medical costs, childcare, transportation, education, or similar items.
- When a death or severe illness has occurred in the family.
- Other qualifying circumstances require approval by the Housing Authority or HUD.

Requests for an exemption from the minimum rent must be submitted in writing to the Housing Authority office. This written request must be accompanied by the following:

- 1.) A complete listing of all household members' current income and their sources.
- 2.) A completed Zero Income form listing all the household members' current financial obligations and routine expenditures.

If a family requests the hardship exemption, application of the minimum rent hardship will be suspended beginning the month following the family's written hardship request. During suspension, the minimum rent will be included in the family's Total Tenant Payment (TTP) and the housing assistance payment will be increased accordingly.

The Housing Authority will determine if the hardship is temporary or long-term. This determination will be based on the information and documentation provided by the family.

## **C. Minimum Rent Hardships**

### **1. Temporary Hardship**

If the hardship is determined to be temporary, the minimum rent will be suspended for a period of 90 days from the date of the family's request. Documentation substantiating the claim for a temporary hardship is required. At the end of the 90-day period, the minimum rent will be reinstated retroactively to the date of the suspension and the amount of overpaid assistance, based on the minimum rent amount, shall be reimbursed by the family. The Housing Authority will offer a reasonable repayment agreement to cover the minimum rent charges accumulated during the suspension period.

### **2. Long-term Hardship**

If the hardship is determined to be long-term, that will extend beyond a 90-day period, documentation regarding the reasons to substantiate the long-term hardship will be required. A statement from either a medical provider or other documentation that the Housing Authority considers to be sufficient will be required. If The Housing Authority determines that there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists. Repayment of the minimum rent is not required as long as the family has complied with the Family Obligations of reporting information. At each annual reexamination, the family's eligibility for financial hardship exemption will be reviewed.

### **3. No Hardship**

If the family has failed to provide documentation proving the hardship has occurred due the circumstances listed or the Housing Authority has determined that there is no qualifying hardship, the minimum rent will be reinstated. A repayment agreement will be executed for any money owed to The Housing Authority during the time of the suspension. Hardship determinations are subject to The Housing Authority's informal hearing process and will be reviewed. If the Housing Authority determines hardship does not exist, the family has the right to request an informal hearing on the decision.

## **XI. Reexaminations**

### **A. Annual Reexaminations**

DHA shall, at least once a year, re-examine the family composition and incomes of all resident families, except that families paying Flat Rent shall have their incomes reexamined only every three years if they so choose. (24 CFR 960.257).

### **B. Special Reexaminations**

A special reexamination shall be conducted in extenuating circumstances such as:

When there is a change in the head of household that requires a remaining family member to take on the responsibilities of a leaseholder.

When a person joins the household (approval must have been granted by the DHA).

When Rent formulas or procedures are changed by Federal law or regulation. These changes will be implemented effective the first month after a thirty day notice period to Tenants of the changes unless the law or regulation specifies different phase-in periods.

When It is found that Tenant has misrepresented the facts upon which rent is based so that the rent Tenant is paying is less than the rent that he/she should have been charged. The Authority then may apply an increase in rent retroactive

### **C. Interim Reexamination**

Families are required to report the following changes to the DHA between regular reexaminations. If the family's rent is being determined under the income method, these changes will result in an interim reexamination. The family shall report these changes within ten (10) days of their occurrence.

1. A member has been added to the family through birth or adoption or court-awarded custody.
2. A household member is leaving or has left the family unit.
3. Any changes in income exceeding ten percent (10%) of the previously reported gross income.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income, an increase in allowable expenses, or other changes in family circumstances. Upon such request, the HA will take timely action to process the interim reexamination and recalculate the tenant's rent.

#### **D. Reexamination Procedures**

(a) At the time of reexamination, all adult members of the household will be required to sign an application for continued occupancy and other forms required by HUD.

(b) Income, allowances, Social Security numbers, and such other data as is deemed necessary will be verified, and all verified findings will be filed in the resident's folder.

(c) Verified information will be analyzed and a determination made with respect to:

- (i) Eligibility of the resident as a family or as the remaining member of a family;
- (ii) Unit size required for the family (using the Occupancy Guidelines); and
- (iii) Rent the family should pay.

(d) Residents with seasonal or part-time employment of a cyclical nature will be asked for verification of their employment including start and ending dates.

(e) Income shall be computed in accordance with the definitions and procedures set forth in Federal regulations, HUD Notices, HA Income Policies and this policy (24 CFR 5).

(f) Self Sufficiency Incentives

The incremental earnings due to employment during a cumulative 48 month period following date of the initial hire shall be excluded as self-sufficiency incentives under 24 CFR 960.255 as follows:

1. The following definitions apply for purposes of the self-sufficiency incentives:

*Baseline income.* The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of 24 CFR 966.255 of a person who is a member of a qualified family.

*Disallowance.* Exclusion from annual income.

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

*Qualified family.* A family residing in public housing:

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

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

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

## 2. Disallowance of earned income

(i) *Initial 12-month exclusion.* During the 12-month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the DHA will exclude from the annual income (as defined in 24 CFR §5.609) of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

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

(iii) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member as provided in this section is limited to a lifetime 24-month period starting from the initial exclusion.

Families eligible for and participating in the disallowance of earned income prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date.

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

While HUD regulations allow for the housing authority to offer an escrow account in lieu of having a portion of their income excluded under this paragraph, it is the policy of this housing authority to provide the exclusion in all cases.

The DHA will not provide additional exclusions from income in addition to those already provided for by HUD or those stated herein.

(g) Families failing to respond to the initial reexamination appointment will be issued a final appointment within the same month. Failure to respond to the final request will result in the family being sent a notice of lease violation and referred to the appropriate individual for termination of the lease 24 CFR 966.4 (c)(2)

## **E. Action Following Reexamination**

(a) If there is any change in rent, the lease will be amended, a new lease will be executed, or A Notice of Rent Adjustment will be issued 24 CFR 966.4( c) & (o).

(b) If any change in the unit size is required, the resident will be placed on a transfer list in and moved to an appropriate unit when one becomes available 75 24 CFR § 966.4 (c)(3).

(c) Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

(d) If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed, provided the family has used diligent and timely efforts to avoid any possible delay.

(e) If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

(f) In the case of a rent increase due to misrepresentation, failure to report a change in household composition, or failure to report an increase in income, the Authority shall apply the increase in rent retroactive to the first of the month following the month which the misrepresentation occurred.

## **F. Eligibility for Continued Occupancy**

Generally residents who meet the following criteria will be eligible for continued occupancy:

1. Qualify as a family as defined in this policy<sup>11</sup>.
2. Are in full compliance with the resident obligations and responsibilities as described in the dwelling lease.
3. Whose family members each have Social Security numbers (unless they are exempt under federal regulations).
4. Who meet HUD standards on citizenship or immigration status or are paying a pro-rated rent 24 CFR 5.508.
5. Who are in compliance with the DHA's community service requirements<sup>12</sup>.

## **G. Remaining Family Members and Prior Debt**

Remaining family members age 18 years or older will be held responsible for arrearages incurred by the former head or spouse. DHA will not hold remaining family members (other than the head or spouse) responsible for any portion of the arrearage incurred before the remaining member attained age 18.

Remaining family members under age 18 shall not be held responsible for the rent arrearages incurred by the former head of household.

## **XII. Minimal Income Policy**

### **A. Appointments**

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<sup>11</sup> For purpose of continued occupancy, remaining family members qualify as a family so long as at least one of them is of legal age to execute a lease. Remaining family members can also include court recognized emancipated minors under age 18

<sup>12</sup> applicable to certain adults who are neither elderly, disabled, working nor participating in qualifying educational or job training programs

For any family reporting no income the Head of Household will be required to complete a Statement of Income and Expenses. This statement serves to document the family's expenses and the source of revenue for each expense.

Failure to provide such information requested on the Statement of Income and Expenses will be grounds for eviction.

The Housing Authority may also waive the requirement for the family to attend said appointment or complete said paperwork if the facts and circumstances of the case warrant such a waiver.

## **B. Utility Re-imbusement Checks**

For a client entitled to a utility reimbursement check in excess of twenty (\$20.00) per month the Housing Authority will send this payment directly to the utility company.

## **XIII. Community Service Requirements**

### **A.General**

In order to be eligible for continued occupancy, each adult family member must either (1) contribute eight hours per month of community service (not including political activities), or (2) participate in an economic self-sufficiency program for 8 hours per month, or (3) perform eight hours per month of combined activities as previously described unless they are exempt from this requirement. The required community service or self-sufficiency activity may also be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification.

### **B. Exemptions**

The following adult family members of tenant families are exempt from this requirement:

- A. Family members who are 62 or older.
- B. Family members who are blind or disabled as defined under 216(I)(1) or 1614 of the Social Security Act (42 U.S.C. 416(I)(1) and who certifies that because of this disability she or he is unable to comply with the community service requirements.
- C. Family members who are the primary care giver for someone who is blind or disabled as set forth in Paragraph B above.



D. Family members engaged in work activity 30 hours or more a week. The work activity must meet the definition of "Work Activity" under Section 407(d) of the Social Security Act (42 U.S.C. Section 607(d)):

1. Unsubsidized employment;
2. Subsidized private-sector employment;
3. Subsidized public-sector employment;
4. Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
5. On-the-job-training;
6. Job-search;
7. Community service programs;
8. Vocational educational training (not to exceed 12 months with respect to any individual);
9. Job-skills training directly related to employment;
10. Education directly related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
11. Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalency, in the case of a recipient who has not completed secondary school or received such a certificate;

E. Able to meet requirements under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 601 et seq.) or under any other welfare program of Massachusetts including a Massachusetts-administered Welfare-to-Work program;

F. A member of a family receiving assistance, benefits, or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 601 et seq.), or under any other welfare program in the State of Massachusetts, including a Massachusetts-administered Welfare-to-Work program, and has not been found by Massachusetts or other administering entity to be in noncompliance with such a program.

## **C. Notification of the Requirement**

The Dedham Housing Authority shall notify all such family members of the community service requirement and of the categories of individuals who are exempt from the requirement. The notification will provide the opportunity for family members to claim and explain an exempt status. The Dedham Housing Authority shall verify such claims. The family will be notified that they must advise the DHA if there is a change in exemption status and such claim will be verified by the DHA (see below).

The notification will advise families of their community service obligation. It will also advise them that failure to comply with the community service requirement will result in ineligibility for continued occupancy at the time of any subsequent annual reexamination.

All families must sign a certification to indicate that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease.

#### **D. Eligible Community Service Activities**

Eligible community service activities include, but are not limited to, serving at

A. Local public or nonprofit institutions, such as schools, Head Start Programs, before-or after-school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult daycare programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing);

B. Nonprofit organizations serving PHA residents or their children, such as: Boy or Girl Scouts, Boys or Girls Club, 4-H Clubs, Police Activities League (PAL), organized children's recreation, mentoring, or education programs, Big Brothers or Big Sisters, Garden Centers, community clean-up programs, beautification programs;

C. Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;

D. Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods or performing arts;

E. PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board, outreach and assistance with PHA-run self-sufficiency activities including supporting computer learning centers; and,

F. Care for the children of other residents so parents may volunteer.

The Dedham Housing Authority will not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by its employees, or replace a job at any location where residents perform activities to satisfy the service requirement. However, residents may do community service on PHA property or with or through PHA programs to assist with or enhance work done by a PHA employee.

The DHA will accept community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

## **E Eligible Self Sufficiency Activities**

Eligible self-sufficiency activities include, but are not limited to:

- A. Job readiness or job training while not employed;
- B. Training programs through local One-Stop Career Centers, Workforce Investment Boards (local entities administered through the U.S. Department of Labor), or other training providers;
- C. Higher education (junior college or college);
- D. Apprenticeships (formal or informal);
- E. Substance abuse or mental health counseling;
- F. Reading, financial and/or computer literacy classes;
- G. English as a second language and/or English proficiency classes;
- H. Budgeting and credit counseling.

## **F. The Process**

At lease execution or re-examination, after the effective date of the adopted policy, all adult members (18 or older) of a public housing resident family must:

- A. Provide documentation, if applicable, that they qualify for an exemption; (Documentation provided by the tenant will be used by the PHA to determine whether the tenant is exempt from the CSSR) and,
- B. Sign a certification that they have received and read the policy and understand that if they are not exempt, failure to comply with the community service requirement will result in nonrenewal of their lease, per 24 CFR 966.4(l)(2)(iii)(D).

For families with non-exempt family members, at the time of annual lease renewal, the DHA will notify the family in writing of the family members who are subject to the community service requirement. The family will be provided with a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

If an exempt individual becomes nonexempt during the twelve-month lease term, it is the family's responsibility to report this change to the DHA within 10 business days.

Within 10 business days of a family reporting such a change, or the DHA determining such a change is necessary, the DHA will provide written notice of the effective date of the requirement, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30-day notice.

If a nonexempt person becomes exempt during the twelve-month lease term, it is the family's responsibility to report this change to the DHA within 10 business days. Any claim of exemption will be verified by the DHA.

Exemption/CSSR completion is verified annually by the PHA. At least 30 days before the annual reexamination and/or lease expiration, the DHA reviews the exempt or nonexempt status and compliance of non-exempt family members (see 24 CFR 960.605(c)(3)). At each regularly scheduled rent re-examination, each non-exempt family member presents a signed certification on a form provided by the DHA of CSSR activities performed over the previous twelve (12) months. The DHA obtains third-party verification of CSSR completion administered through outside organizations. Specifically, the DHA has a standardized form with places for signature confirmation by supervisors, instructors, or counselors certifying the number of hours contributed. When needed additional supporting documentation may be requested of the resident to verify CSSR participation or exempt status. Copies of the certification forms and any supporting documentation is retained in PHA files.

## **G. Non-compliance with Community Service Requirement**

If the DHA finds a tenant is non-compliant with CSSR, then the DHA will provide written notification to the tenant of the noncompliance which will include:

- A. A brief description of the finding of non-compliance with CSSR.
- B. A statement that the PHA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the DHA or

the family provides written assurance that is satisfactory to the PHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement.

The tenant may request a grievance hearing on the PHA determination, in accordance with 24 CFR Part 966, subpart B, and the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of such determination.

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, the DHAs will initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) due to the fact that the family is failing to comply with lease requirements. When initiating termination of tenancy proceedings, the DHA will provide the following procedural safeguards:

- A. Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
- B. Right of the tenant to be represented by counsel;
- C. Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- D. A decision on the merits.

#### **XIV. Payment of Amounts the Family Owes the DHA**

Grounds for denial or termination Public Housing Assistance (termination of the lease and eviction) include situations in which the family owes money to the Housing Authority. Tenants are required to reimburse the DHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the DHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the DHA will terminate the lease and evict the family. HUD does not authorize any HA sponsored amnesty or debt forgiveness programs.

The Housing Authority may, in its discretion, based on the facts and circumstances of the case, offer the family the opportunity to enter into a repayment agreement.

Factors considered in determining whether a repayment agreement will be offered include, but are not limited to, the following:

- 1 – the amount of money owed;

2 - the reason such money is owed and the extent of culpability on the part of family members;

3 – the family's evidence of commitment and ability to make repayment.

All repayment agreements will be in writing, dated, signed by both the tenant and the HA, and will include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements will contain the following provisions:

1. Reference to the paragraphs whereby the tenant is in non-compliance and may be subject to termination of assistance.
2. The amount of monthly retroactive rent repayment payable to the HA.
3. The fact that terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
4. The fact that late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed. The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.

Residents will be required to repay the retroactive rent balance as follows:

1. In a lump sum payment; or
2. Monthly installment; or
3. A combination of 1 and 2, above

In the event of breach of the agreement by the family (i.e. late or missed payments), the Housing Authority shall retain the right to terminate the agreement and move forward with termination of the lease and eviction on grounds originally available at the time of execution of the repayment agreement and on any additional grounds which have become applicable since the execution of the repayment agreement.

In the event that a family makes one or more late payments which are accepted by the HA, this shall not stop the HA from terminating the agreement at a later date for failure of the family to again make payment within the time parameter set forth in the repayment agreement.

The Housing Authority reserves the right to refuse to enter into a repayment agreement with a family if the HA is of the opinion that such agreement should not be offered based upon the facts and circumstances of the case. In such cases the Housing Authority will proceed with collection action as no amnesty or debt forgiveness programs are authorized by HUD.

## **XV. Transfer Policy**

The reexamination for continued occupancy provides an opportunity to review any changes in the family size that may require a transfer to a larger or smaller dwelling. Transfers requested as a reasonable accommodation will be handled in accordance with the DHA's Reasonable Accommodation in Housing Policy. Transfers requested under VAWA will be handled according to the DHA's VAWA Policy and Emergency Transfer Plan. Transfers under VAWA shall be deemed emergency transfers and will take precedence over non-emergency transfers.

For the Authority to run its programs in an effective manner that complies with local code and program regulations, it may be necessary for a Tenant Household to be transferred from one unit to another appropriate unit. A transfer required by the Authority to meet policy and regulatory requirements is termed an involuntary transfer. A resident request for transfer, which is not based on a documented medical, disability-related need or household composition, is considered a voluntary transfer.

- (a) Tenant agrees that if the DHA determines that the size or design of the dwelling unit is no longer appropriate to Tenant's needs, the Tenant must accept a new Lease for a different dwelling unit of the appropriate size or design. The DHA shall send Tenant written notice of this action and allow at least 15 days time for the Tenant to ready the household for transfer.
- (b) Once notified that the new unit is available, the household must move out of the old unit into the new within seven (7) calendar days. The lease for the new unit will be effective on the day of move-in. Overlapping leases will be permitted.
- (c) The DHA may move a Tenant into another unit if it is determined necessary to rehabilitate Tenant's unit. Unless the Authority agrees to return the household to its original unit, this transfer will be one-way.
- (d) If a Tenant makes a written request for special unit features in support of a documented disability, the DHA shall have the choice to modify Tenant's existing unit or transfer Tenant to another unit with the features requested.
- (e) When requested, a tenant without disabilities who is housed in a unit with special features must transfer to a unit without such features should another Tenant with disabilities that match the design of the unit need the unit.
- (e) In the case of involuntary transfer, Tenant shall be required to move into the dwelling unit made available by the DHA. Once notified that the new unit is available, the household must move out of the old unit into the new within seven (7) calendar days. The lease for the new unit will be effective on the day of move-in. Overlapping leases will be permitted. If Tenant refuses to move, the Authority may terminate the Lease.

- (f) Involuntary transfers are subject to the Grievance Procedure, and no such transfer may be made until either the time to request a Grievance has expired or the procedure has been completed.

## **XVI. Inspections**

### **A. Inspections**

An authorized representative of the DHA and an adult family member will inspect the premises prior to commencement of occupancy. A written statement of the condition of the premises will be made, all equipment will be provided, and the statement will be signed by both parties with a copy retained in the DHA file and a copy given to the family member. An authorized DHA representative will inspect the premises at the time the resident vacates and will furnish a statement of any charges.

### **B. Move-In Inspections**

The Authority and Tenant or representative shall inspect the dwelling unit prior to occupancy by Tenant. The Authority will give Tenant a written statement of the condition of the dwelling unit, both inside and outside, and note any equipment provided with the unit. The statement shall be signed by the Authority and tenant and a copy of the statement retained in tenant's folder. Any deficiencies noted on the inspection report will be corrected by the Authority. If no other deficient conditions, which may not have been apparent at the time of Move-in Inspection, are identified by the household within fifteen (15) days of the Move-in Inspection, the condition of the unit is established. Any subsequent deficiencies must be reported by the Household to the Authority as part of its maintenance procedures.

### **C. Annual Inspections**

The DHA will inspect each public housing unit annually to ensure that each unit meets the DHA's housing standards. Work orders will be submitted and completed to correct any deficiencies.



## **D. Preventative Maintenance Inspections**

Preventative Maintenance Inspections are performed pursuant to the DHA's Preventative Maintenance Program which is on file at the DHA office.

## **E. Special Inspections**

A special inspection may be scheduled to enable HUD or others to inspect a sample of the housing stock maintained by the DHA.

## **F. Housekeeping Inspections**

Generally, at the time of annual reexamination, or at other times as necessary, the DHA will conduct a housekeeping inspection to ensure the family is maintaining the unit in a safe and sanitary condition.

## **G. Notice of Inspection**

For inspections defined as annual inspections, preventative maintenance inspections, special inspections, and housekeeping inspections, the DHA will give the tenant at least two (2) days written notice.

## **H. Emergency Inspections**

If any employee and/or agent of the DHA has reason to believe that an emergency exists within the housing unit, the unit can be entered without notice. The person(s) that enters the unit will leave a written notice to the resident that indicates the date and time the unit was entered and the reason why it was necessary to enter the unit.

## **I. Pre-Move-Out Inspections**

When a tenant gives notice that they intend to move, the DHA may offer to schedule a pre-move-out inspection with the family. The inspection allows the DHA to help the family identify any problems which, if left uncorrected, could lead to vacate charges. This inspection is a courtesy to the family and has been found to be helpful both in reducing costs to the family and in enabling the DHA to ready units more quickly for the future occupants.

## **J. Move-Out Inspections**

The Authority will inspect the unit at the time Tenant vacates and give Tenant a written statement of the charges, if any, for which Tenant is responsible. Tenant and/or representative may join in such inspection, unless Tenant vacates without notice to the DHA.

## **XVII. Defects Hazardous to Life, Health or Safety**

In the event that the dwelling unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants:

DHA Responsibilities include:

(A) The Authority shall be responsible for repair of the unit within a reasonable period of time after receiving notice from Tenant. If the damage was caused by Tenant, household members, or guests the reasonable cost of the repairs shall be charged to Tenant.

(B) The DHA shall offer Tenant replacement housing, if available, if necessary repairs cannot be made within a reasonable time and the damage was not caused by tenant, household members or guests.

(C) Tenant shall accept any reasonable housing offered by Dedham Housing Authority.

(D) In the event repairs cannot be made by the Authority, as described above, or alternative standard accommodations are unavailable, the rent shall abate in proportion to the seriousness of the damage and loss in value as a dwelling. The Authority will endeavor to make all necessary repairs as soon as possible. No abatement shall occur if Tenant rejects alternative accommodations or if the damage was caused by tenant, household members or guests.

(E) If the Authority determines that the dwelling unit is uninhabitable because of imminent danger to life, health, and safety of Tenant, and alternative accommodations are refused by Tenant, this Lease shall be terminated, and any advanced rent paid will be refunded to Tenant.

Tenant Responsibilities include:

(A) Tenant shall immediately notify the Authority of the damage and intent to abate rent (rent withholding), when the damage is or has become sufficiently severe that Tenant believes he/she is justified in abating rent and the damage was not caused by tenant, household members or guests.

(B) Tenant agrees to continue to pay full rent, less the abated portion agreed upon by the Authority, during the time in which the defect remains uncorrected.

## **XVIII. Prevention or Eradication of Pest Infestation**

The Dedham Housing Authority will make all efforts to provide a healthy and pest-free environment for its residents. The Authority will determine which, if any, pests infest its properties and will then provide the best possible treatment for the eradication of those pests.

Prevention and eradication of pests will be performed pursuant to the DHA's Preventative Maintenance Plan which is on file at the DHA offices.

Residents are to report sightings of pests to the DHA. Further residents must cooperate with DHA measures to eradicate pests on or near the public housing unit.

## **XIX. DHA's Safety and Crime Prevention Measures**

The DHA's Public Housing does not have a high incidence of violent and/or drug-related crime. The DHA does monitor this through its relationship with the Dedham Police Department. The DHA strongly enforces its "One Strike and You're Out" policy in Public Housing.

## **XX. Tenant's Obligations**

Tenants shall be obligated

(A) Not to assign the Lease, nor sublease the dwelling unit.

(B) 1. Not to give accommodation to boarders or lodgers; and

2. Not to give accommodations to long term guests (in excess of 21 days across each twelve months) without the advance written consent of the Authority.

(C) To use the dwelling unit solely as a private dwelling for Tenant and household as identified in the Lease, and not to use or permit its use for any other purpose. This provision does not exclude the care of foster children or a personal care attendant of a member of tenant's household, provided the accommodation of such persons conforms to the Authority's Occupancy standards, and so long as the DHA has granted prior written approval.

(D) To abide by necessary and reasonable rules and regulations promulgated by the DHA for the benefit and well-being of the housing development and Tenants. Regulations are posted in a conspicuous manner and incorporated by reference in tenant's lease. Violation of such regulations constitutes a violation of the Lease.

(E) Not to create conditions that violate requirements of applicable state and local building or housing codes, materially affecting health and/or safety of Tenant and household, and to notify the Authority of any condition requiring repair regardless of the cause.

(F) To keep the dwelling unit and other such areas as may be assigned to Tenants exclusive use in a clean and safe condition. This includes keeping front and rear entrances and walkways for the exclusive use of Tenant, free from snow, ice and trash and keeping the yard free of debris and litter.

(G) To dispose of all garbage, rubbish, and other waste from the household in a sanitary and safe manner in containers approved or provided by the Town of Dedham. To refrain from, and cause members of Tenant's household or guest to refrain from, littering or leaving trash and debris in common areas, hallways, or entry ways.

(H) To use all electrical, sanitary, heating, ventilating, and other facilities in reasonable and non-abusive manner.

(I) To refrain from, and to cause household and guests to refrain from destroying, defacing, damaging, or removing any part of dwelling unit, common areas or developments.

(J) To pay reasonable charges (other than for wear and tear) for the repair of damages to the dwelling unit, development buildings, facilities, or common areas caused by Tenant, household members or guests.

(K) To act, and cause household members or guests to act in a manner that will:

1. Not disturb other residents peaceful enjoyment of accommodations; and
2. Be conducive to maintaining all Authority developments in a decent, safe and sanitary condition.

(L) To assure that Tenant, any member of the household, a guest or another person under Tenant's control, shall not engage in:

1. Any criminal or other type of activity that threatens the health, safety, or right to peaceful enjoyment of the DHA's public housing premises by other residents, their guests or employees of the DHA.
2. Any drug related criminal activity on or off the premises. Any criminal activity in violation of the preceding sentence shall be cause for termination of tenancy, and for eviction from the unit.

3. Unlawful use of the premises by creation of a nuisance as described by M.G.L. Chapter 139, Sections 16-20.

4. Alcohol abuse that the Authority determines sufficient to interfere with the health, safety or right to peaceful enjoyment of the premises by other tenants, their guests or employees of the DHA.

(M) Not to make any repairs, alterations or changes to the elements of the dwelling unit or install permanently affixed carpet, wall covering or any equipment including antennas, or to use a water bed without the prior written consent of Management. This includes installation of major appliances. To make no changes to locks or install new locks or exterior doors without the Authority's written approval.

(N) To give prompt prior written notice to the Authority of Tenant's leaving dwelling unit unoccupied for any period exceeding two calendar weeks.

(O) The Authority retains the right to declare any unit which is not occupied by the Head of Household for a two week period and for which rent is in arrears as abandoned under state law and terminate the Lease.

(P) To act in cooperative manner with neighbors and Authority Staff. To refrain from acting or speaking in an abusive or threatening manner toward neighbors and Authority Staff.

(Q) Not to display, use, possess or allow members of Tenant's household or guests to display, use or possess any firearms without prior authority, (operable or inoperable) or other offensive weapons as defined by the laws and courts of the Commonwealth of Massachusetts anywhere on the property of the Authority.

(R) To take all reasonable and necessary precautions to prevent fires and to refrain from storing or keeping flammable materials upon the premises. Storage of mowers or other gas-powered equipment requires removal of all fuel and placement in an area free from hazard of fire.

(S) To avoid obstructing sidewalks, areaways, passages, or stairs, and to avoid using these for purposes other than going in and out of the dwelling unit.

(T) To refrain from erecting or hanging radio, satellite dishes, or television antennas on or from any part of the development not within the direct control of the tenant, and to request permission to install such item from the DHA in areas controlled by the tenant prior to installation.

(U) Not to allow pets on the premises, the DHA has a "no pet policy". Assistance animals are not considered pets and may be allowed as a reasonable accommodation.

(V) To remove from Authority property any vehicles without valid state registration and current inspection stickers. To refrain from parking any vehicles in any right-of-way or fire lane designated and marked by the Authority. Any inoperable or unlicensed vehicles as described above will be removed from the Authority property at Tenant's expense. Automobile repairs and maintenance are not permitted to be done on any DHA site.

(W) To remove any personal property left on Authority property when Tenant leaves, abandons or surrenders the dwelling unit. Property left after the tenant leaves or surrenders the unit shall be removed from the unit as soon as the next after return of keys or formal termination by the tenant or by execution of court order. In cases when keys are not returned or formal termination provided by the tenant, property will be removed immediately when the Authority determines that the tenant has left and will be disposed of by the Authority at the expense of the former tenant.

- (X) 1. Not to commit any fraud in connection with any housing assistance program, and
2. Not to receive assistance for occupancy of any other unit assisted under any housing assistance program during the term of the Lease.

(Y) To pay promptly any utility bills for utilities supplied to Tenant by a direct connection to the utility company, and to avoid disconnection of utility service for such utilities.

(Z) To adhere to all local ordinances of Dedham including all ordinances on truancy and curfew should they be applicable.

(AA) To have each household member covered by the Community Service requirement, if applicable, complete their annual requirement of 96 hours of community service per year and provide proof of such compliance in a manner consistent with the Authority's Community Service Policy at the time of annual recertification or be subject to non-renewal of the household's lease.

## **XXI. Termination of Lease**

### **A. Termination by Tenant**

Tenant may terminate their Lease at any time by giving thirty days formal written notice.

### **B. Termination by HA**

The Lease may be terminated only for serious or repeated violations of material terms of the Lease, such as failure to make payments due under the Lease or to fulfill Tenant obligations set forth in the lease, admissions and continued occupancy policy and/under State and federal law, or for other good cause. Such serious or repeated violation of terms shall include but not be limited to:

1. The failure to pay rent or other payments when due;
2. Failure to accept the DHA's offer of a lease revision to an existing lease;

3. Misrepresentation of household income, assets, or composition;
4. Failure to supply, in a timely fashion, any certification, release, information or documentation on household income or composition needed to process annual re-examinations or interim redeterminations;
5. Serious or repeated damage to the dwelling unit, creation of physical hazards in the unit common areas, grounds, or parking areas of any development site;
6. Criminal or other types of activity by Tenant, household member, guest or other person under Tenant's control including criminal activity that threatens the health, safety, or right to peaceful enjoyment of the DHA's public housing premises by other residents, or any drug-related criminal activity on or near Authority property;
7. Discovery of a failure to disclose required information on the original application including information regarding criminal background;
8. Conviction of any household member for manufacture of meta-amphetamines on the premises of federally assisted housing;
9. Offensive weapons or illegal drugs seized in the DHA unit by a law enforcement officer;
10. A criminal arrest, prosecution or conviction for the activity described in 5 or 6, shall not be necessary in order to sustain an eviction for cause or provide cause for termination by the DHA. M.G.L. 139 § 19 provides for this ability to consider the Lease breached without action to enforce criminal statutes;
11. Failure to comply with the Community Service requirement, if applicable, for covered household members (non-compliance can only result in non-renewal of the lease at the end of the current lease term);
12. Any fire on Authority premises caused by household carelessness, failure to supervise children or unattended cooking.
13. Failure to allow inspection of the unit;
14. Assignment or subletting of the premises;
15. Use of the premises for purposes other than as a dwelling unit (other than for DHA approved resident businesses);
16. Permitting persons not on the lease (guests) to reside in the unit more than twenty-one (21) days each year without the prior written approval of the DHA;
17. Any activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or employees of the authority by the resident, household members or guests of the resident or threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy;

18. Alcohol abuse that the DHA determines interferes with the health, safety or right to peaceful enjoyment of the premises by other residents;
20. Any activity that is prohibited by 24 CFR § 966.4 (f);
21. Other good cause.

The DHA will take immediate action to evict any household member occupant, or guest that includes an individual who is subject to a lifetime registration requirement under a State sex offender registration program.

In deciding to evict for criminal activity, the DHA shall have discretion to consider all of the circumstances of the case, including the seriousness of the offense, the extent of participation by, or awareness of household members, and the effects that the eviction would have both on household members, not involved in the prescribed activity and on the household's neighbors. In appropriate cases, the DHA, in its sole discretion, may permit continued occupancy by remaining household members and may impose a condition that household member who has engaged in the illegal use of drugs to present credible evidence of successful completion of a treatment program as a condition to being allowed to reside in the unit.

### **C. Time Frame for Written Notice of the Proposed Termination of the Lease**

1. 14 days in the case of failure to pay rent;
2. A reasonable time, but not to exceed thirty days, considering the seriousness of the situation, but not to exceed 30 days, when the health or safety of other tenants or Authority staff is threatened; and
3. 30 days in any other case.

### **D. The Notice of Termination to Tenant**

1. The notice of termination to Tenant shall state specific reasons for the termination, shall inform Tenant of his/her right to make such reply as he/she may wish, and of Tenant's right to examine DHA documents directly relevant to the termination.
2. When the DHA is required to offer Tenant the opportunity for a Grievance Hearing, the notice shall also inform Tenant of the right to request such a hearing in accordance with the DHA's Grievance Procedures.
3. Any Notice to Vacate (or quit) which is required by State or local law may be combined with, or run concurrently with the notice of termination under this section. The Notice to Vacate must be in writing, and specify that if the Tenant fails to quit the premises within the statutory period, appropriate action will be brought, and he/she may be required to pay the costs of court and attorney's fees.



4. When the DHA is required to offer a Tenant the opportunity for a grievance concerning the Lease termination, the tenancy shall not terminate (even if any Notice to Vacate under State or Local law has expired) until the period to request a hearing has expired, or (if a hearing is requested) the grievance process has been completed.

5. When the DHA is not required to offer Tenant the opportunity for a hearing under the grievance procedure and the DHA has decided to exclude such grievance from the DHA grievance procedure (which can only be done following a Due Process Determination by HUD), the notice of Lease termination shall (a) state that Tenant is not entitled to a grievance hearing on the termination (b) specify the judicial eviction procedure to be used by the DHA for eviction and state that HUD has determined that this eviction procedure provides the opportunity for a hearing in a court that contains the basic elements of due process as defined by HUD regulations and (c) state whether the eviction is for a criminal activity that threatens health or safety of residents or staff or for drug related criminal activity.

6. The DHA may evict Tenant from the unit only by bringing a court action. Self-help evictions are not permitted under Massachusetts Law.

## **E. Abandonment**

The Authority retains the right to declare any unit which is not occupied by the Head of Household for a two week period and for which rent is in arrears as abandoned under state law and terminate the Lease.

## **XXII. Formal Notice Procedures**

### **A. Tenant Responsibility**

Any formal notice to the Authority must be in writing, delivered to the Authority's central office, or sent by prepaid first-class mail, properly addressed.

Return receipt for Registered or Certified mail shall be sufficient evidence that notice was given, whether signed or unsigned.

### **B. Authority Responsibility**

Formal notices to tenant must be in writing, delivered to tenant or to any adult member of the household residing in the dwelling unit, or sent by first-class mail addressed to Tenant.

Return receipt for Registered or Certified mail shall be sufficient evidence that notice was given, whether signed or unsigned.

## **Exhibits:**

### **Exhibit A: One Strike and You're Out" Policy In Public Housing**

Being a public housing tenant of the Dedham Housing Authority, you have been made aware of the following:

1. A public housing tenant, any member of the Tenant's household, or guest or other person under the Tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and such criminal activity shall be cause for termination of tenancy. In addition, the Dedham Housing Authority has a One Strike of "zero tolerance" policy with respect to violations of the lease terms regarding criminal activity. Further, alcohol abuse is grounds for termination of tenancy if it is determined that such cause interferes with the health, safety or right to peaceful enjoyment of the premises by other tenants; therefore alcohol abuse will be grounds for eviction under these circumstances.
2. Since evictions are civil, not criminal matters, the DHA may terminate a lease and evict a tenant who engages in drug and violent activity with or without a criminal conviction or arrest. The DHA will be prepared to prove in court with sufficient evidence that a tenant has violated his or her lease.
3. The DHA shall not terminate a lease, and evict a tenant based on criminal activity, without first giving a written notice and an opportunity for a hearing. This hearing and notice may be that as provided for under Massachusetts General Laws in relation evictions, including but not limited to laws governing expedited evictions for criminal activity under Massachusetts Law.
4. The DHA will request cooperation from the local police department. The DHA will request police supply additional patrols for public housing communities with special needs. The DHA will request that police promptly provide the housing authority with relevant incident reports for timely eviction processing, help the authority expedite drug identification in a serious case and prepare as needed with the DHA's attorney.
5. Assist civilian witnesses in eviction proceedings. The DHA will help witnesses who have agreed to testify in eviction proceedings prepare for court and provide them with any other support they may need.
6. The DHA is aware that criminal activities are also committed by non-residents. In many public housing communities, criminal and disruptive activities are undertaken by those who do not live in the respective community. Therefore, the DHA has "No Trespassing" signs on properties. If a non-resident argues that he or she is a guest of a resident and is engaging in disruptive activities, the family linked to these people will be held liable and shall face eviction.
7. Protecting resident from the effects of alcohol abuse: The DHA will prohibit occupancy by a person if the DHA determines that it has reasonable cause to believe that the person's abuse of alcohol will interfere with the health, safety, or right to

peaceful enjoyment of the premises by other residents. The DHA will also terminate a tenancy when determined that a person's abuse of alcohol is interfering with the rights of residents.

## **Exhibit B: Dedham Housing Authority Uniform Grievance Policy & Procedure**

### **1. PURPOSE**

This Grievance Policy & Procedure is intended to assure that Dedham Housing Authority residents are afforded an opportunity for a fair and open Hearing if the head of household disputes any DHA action or failure to act involving the resident's lease with the DHA or other DHA rules or regulations which adversely affect the individual resident's rights, duties, welfare, or status.

This policy defines the procedural actions that the DHA will follow in the conduct of the meetings and hearings related to review of an allowable grievance under regulation.

It is developed to conform to the requirements of 24 CFR 966 Subpart B, which covers federal public housing, and 760 CMR 6.00, which covers state-aided public housing. Given the substantial overlap in intent and language between the regulations of the federal and state-aided programs on their approach, definitions and standards, a Uniform Grievance Policy & Procedure has been determined by the DHA to be an appropriate and suitable means to assure the greatest degree of equal and uniform treatment for all public housing program participants. In those instances where the requirements of the two programs differ in an explicit sense, the applicable statutory or regulatory definitions or requirements will apply. Depending upon the specific program, different appeal rights pertain.

The Grievance Procedure is not intended as a forum for initiating or negotiating policy changes with the Authority's Management or Board of Commissioners. Issues of a policy nature may be addressed directly to the Management of the Authority whose decisions may be raised to the DHA Board of Commissioners. The Board of Commissioners meets on a frequent basis and the meeting is open to the public.

### **2. DEFINITIONS**

**A. DHA** -- Dedham Housing Authority

**B. Head of Household/Resident** -- adult person (or persons) (other than a Personal Care Attendant or live-in aide):

1. Who resides in the unit, and who executed the lease with the DHA as lessee of the dwelling unit, or if no such person now resides in the unit,
2. Who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit.

**C. Grievance** -- Except as noted below, any dispute which:

1. a resident may have with respect to an DHA action or failure to act in accordance with the individual resident's lease or DHA regulations which adversely affect the individual resident's right, duties, welfare or status, and

2. a resident declares in writing to be a grievance.
3. Exclusions for state public housing:
  - a. Disputes between tenants.
  - b. Non-payment of rent (without cause)
  - c. Class grievances.
  - d. Any grievance concerning a termination of tenancy or eviction that involved:
    - (1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the DHA, or
    - (2) Any drug-related criminal activity on or near such premises.
3. Exclusions for federal public housing:
  - a. Disputes between tenants not involving the PHA.
  - b. Class grievances.
  - c. Any grievance concerning a termination of tenancy or eviction that involved:
    - (1) Criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
    - (2) Violent or drug-related criminal activity on or off such premises; or
    - (3) Criminal activity that resulted in felony conviction of a household member.

**D. Complainant** -- Any resident whose grievance is presented in writing to the DHA office in accordance with 3 and 4a below, and whose dispute is grievable under this procedure (see 2c).

### **3. INFORMAL SETTLEMENT OF GRIEVANCE**

Any grievance shall be personally presented within the time specified by the DHA's written notice of the adverse action, or, if no such time is specified in a written notice of an adverse action, within thirty (30) days of the DHA's action or failure to act giving rise to the dispute. The grievance must be presented in writing and be fully legible. The presentation of the grievance shall be made directly to the DHA at its main office.

An attempt will be made to settle the matter informally, by discussion and without a formal Hearing. The DHA will notify the resident of a time and place for this informal review of the basis of the grievance. The resident may bring legal counsel to an informal review.

If the resident avails themselves of the informal process, a summary of the discussion shall be prepared within five (5) work days. One copy shall be given to the complainant and one retained in DHA's resident file. The summary shall specify:

1. The names of the participants;
2. Date(s) of meeting;
3. The nature of the proposed disposition of the grievance and the specific reason therefore; and
4. The procedures by which a Hearing under paragraph 4 below may be obtained if the resident is not satisfied.

#### **4. BYPASS OF THE GRIEVANCE PROCESS**

In some cases the DHA or HUD may determine that bypassing the Grievance Process is allowed by statute and regulation and is otherwise appropriate under the specific circumstances.

HUD regulations permit a housing agency to by-pass the grievance process for lease terminations actions that entail:

(A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the DHA;

(B) Any violent or drug-related criminal activity on or off such premises; or

(C) Any criminal activity that resulted in felony conviction of a household member.

DHCD Programs permit a housing agency to void a lease and proceed to evict a household and bypass any Grievance Process when the following circumstances are determined to exist by the housing agency:

(A) has unlawfully caused serious physical harm to another tenant or an employee of DHA or any other person lawfully on DHA's property.

(B) has unlawfully threatened to seriously physically harm another tenant or an employee of DHA or any person lawfully on DHA's property.

(C) has unlawfully destroyed, vandalized or stolen property of a tenant or of LHA or of any person lawfully on LHA's property, if such conduct creates or maintains a serious threat to the health or safety of a tenant, an LHA employee, or any other person lawfully on LHA's property.

(D) has unlawfully possessed, carried, or kept a weapon on or adjacent to LHA's property in violation of M.G.L. c. 269, §10.

(E) has unlawfully possessed or used an explosive or incendiary device on or adjacent to LHA's property or otherwise violated M.G.L. c. 266, §§ 101, 102, 102A or 102B.

(F) has unlawfully possessed, sold, or possessed with intent to distribute a class A, B or C controlled substance, as defined in M.G.L. c. 94C, §31, on or adjacent to LHA's property.

(G) has engaged in other criminal conduct which seriously threatened or endangered the health or safety of any member of a tenant household, employee of LHA, or any person lawfully on LHA's property.

(H) has engaged in behavior which would be cause for voiding the state-aided housing program lease pursuant to the provisions of M.G.L. c. 139, §19.

For all these situations, the housing agency's legal authority to bypass grievance procedure applies to lease violations of the kind described above that result from action of members of the household and their guests.

The DHA shall give to the Head of Household a written notice, which shall state the reason for either voiding the lease or proceeding to evict without recourse to a Grievance Hearing.

## **5. OBTAINING A HEARING**

### **A. Request for Hearing**

The complainant shall submit a written request for a Hearing to the DHA main office within seven (7) calendar days after receipt of the summary of discussion pursuant to paragraph 3 above. The written request shall specify:

1. The reason for the grievance, and
2. The action or relief sought.

The grievance must be stated in terms specifying how the DHA's action or failure to act adversely affects the resident's rights, duties, welfare, or status in violation of the resident's lease or other DHA rules or regulations.

### **B. Hearing Officer**

The grievance hearing shall be conducted by an impartial person appointed by the Dedham Housing Authority other than a person who made or approved the action under review or a subordinate of such person. The Authority will appoint one of the following individuals as hearing officer: An attorney, a certified hearing officer or other individual with at least 5 years of experience with administration of low income housing programs. This individual must be familiar with federal regulations and Massachusetts State laws governing federal and state public housing including, but not limited to, laws and regulations with respect to reasonable accommodation in housing.

### **C. Scheduling of Hearings**

DHA shall schedule a Grievance Hearing within thirty (30) days from receipt of the request for a Hearing. If the adverse action involves a termination of program participation the Hearing shall be and at least fifteen (15) days prior to the date of termination as set out in the notice of termination. Reasonable notice of the date of the Hearing shall be given to Tenant.

### **D. Failure to Request a Hearing**



If the complainant does not request a Hearing within the required time frame, then the disposition of the grievance specified in the summary of the informal discussion prepared in accordance with Section 3 above will become final. Not requesting a Hearing will not constitute a waiver by the complainant of his/her right to contest the DHA's action in disposing of the grievance in an appropriate judicial proceeding.

#### **E. Informal Hearing Prerequisite**

All grievances will be presented in writing pursuant to the informal procedure prescribed in Section 3 above as a condition to a Hearing under this section. However, if the complainant shows good cause to the Hearing Officer why s/he failed to proceed in accordance with Section 3, the provisions of this subsection may be waived by the Hearing Officer.

#### **F. Escrow Deposit**

Before a Hearing is scheduled involving a dispute in the amount of rent which the DHA claims is due or a failure of the DHA to provide proper services as required under the lease, the resident must establish an escrow account for the amount in dispute and provide proof of the existence of the account. All payments due prior the month in which the alleged act or failure to act took place must be paid in full. The complainant shall, thereafter, deposit the monthly rent due in the escrow account each month until the grievance is resolved by a decision of the Hearing Officer.

DHA may require proof that such deposits are being made. Unless this requirement is waived by the DHA, the failure to make such payments shall result in a termination of the complainant's right to grieve under this procedure. Failure to make the above-designated payment shall not constitute a waiver of any right the complainant may have to contest the DHA's disposition of the grievance in an appropriate judicial proceeding.

This escrow deposit provision is not applicable to federal public housing.

### **6. PROCEDURES GOVERNING THE FORMAL HEARING**

**A. Due Process** - The complainant shall be afforded a fair Hearing providing the basic safeguards of due process which shall include:

1. The opportunity to examine before the Hearing and, at the expense of the complainant, to copy all documents, records and regulations of the DHA that are relevant to the adverse action. Any document not so made available after request therefore by the complainant may not be relied on by the DHA at the Hearing;
2. The right to be represented by counsel or other person chosen as his/her representative;
3. The right to a private or public Hearing according to the complainant's preference;
4. The right to present evidence and arguments in support of his/her grievance, to controvert evidence relied on by the DHA, and to confront and cross-examine all witnesses on whose testimony or information the DHA relies; and

5. A decision based solely and exclusively upon the facts presented at the Hearing.

**B. Prior Determination on the same Issue is binding** – The Hearing Officer may render a decision without proceeding with a Hearing if they determine that the issue has been previously decided in another proceeding.

At the Grievance Hearing any additional reason for termination of the lease, which arose subsequent to the date of the notice of termination of lease, shall be considered so long as DHA gives the resident written notice of the additional reason, not less than three (3) days before the Hearing or, if a reason for eviction shall have arisen within such three (3) day period, a subsequent session of the Hearing may be scheduled on not less than three (3) days notice to consider such additional reason.

**C. Failure to Appear** – If the complainant or the DHA fails to appear at a scheduled Hearing, the Hearing Officer may make a determination to postpone the Hearing for a period not to exceed five (5) work days or may make a determination that the party has waived his/her right to a Hearing. Both the complainant and the DHA shall be notified of the determination by the Hearing Officer, provided that a determination that the complainant has waived his/her right to a Hearing shall not constitute a waiver of any right the complainant may have to contest the DHA's disposition of the grievance in an appropriate judicial proceeding.

## **7. SCOPE OF JURISDICTION OF THE HEARING OFFICER**

**A.** The complainant must first make a showing of entitlement to the relief sought and thereafter the DHA must sustain the burden of justifying the DHA action or failure to act against which the grievance is directed.

**B.** The relief sought by the complainant must be relevant to the aggrieved act or failure to act and must not be inconsistent with:

1. Local, State, or Federal law;
2. Resident's lease;
3. DHA rules or regulations;
4. The DHA's Annual Contributions Contract with either HUD or DHCD, depending on the program effected; or
5. HUD or DHCD regulations applicable to DHA.

**C.** The Hearing shall be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The complainant, council, and other participants or spectators are required to conduct themselves in an orderly fashion. Private Hearings are limited to three spectators of the residents choosing. Only DHA staff directly involved with the Hearing will attend a private Hearing. Failure to comply with the directions to remain orderly may result in exclusion from the proceedings.

**D.** The Hearing Officer will conduct a Hearing in order to determine whether the DHA's action or failure to act is consistent with the resident's lease with the DHA or with other applicable DHA rules or regulations, and whether the DHA is justified in proceeding with its action.

## **8. DECISION OF THE HEARING OFFICER**

**A.** The Hearing Officer will prepare a written decision together with the reasons therefore, within fifteen (15) work days after the Hearing. A copy of the decision shall be sent to the complainant and the DHA. The DHA shall retain a copy of the decision in the resident's file. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the DHA and made available for inspection by a prospective complainant or his/her representative.

**B.** The decision of the Hearing Officer in favor of the complainant must specify which provision of the resident's lease or other regulation has been violated. The remedy granted by the Hearing Officer may not violate:

1. Local, State, or Federal law;
2. Resident's lease;
3. DHA rules or regulations;
4. The DHA's Annual Contributions Contract with either HUD or DHCD, depending on the program effected; or
5. HUD or DHCD regulations applicable to DHA.

**Exhibit C: DHA Rent Collection Policy**

**Exhibit D: Equal Opportunity Housing Policy**

