

**Albemarle County
Office of Housing**



Housing Choice Voucher/Section 8 Administrative Plan

2012

Table of Contents

Chapter 1 Statement of Policies and Objectives

A.	Introduction	1-1
B.	Jurisdiction	1-2
C.	Housing Authority Mission Statement	1-3
D.	Federal and Local Goals	1-4
E.	Purpose of the Administrative Plan	1-5
F.	Administrative Fee Reserve	1-6
G.	Rules and Regulations	1-7
H.	Terminology	1-8
I.	Fair Housing Policy	1-9
J.	Reasonable Accommodations Policy	1-10
K.	Apply for Admission	1-11
L.	Translation of Documents	1-12
M.	Management Assessment Objectives	1-13
N.	Records for Monitoring Performance	1-14
O.	Privacy Rights	1-15
P.	Family Outreach	1-16
Q.	Owner Outreach	1-17

Chapter 2 Eligibility for Admission

A.	Introduction	2-1
B.	Eligibility Factors	2-2
C.	Family Composition	2-3
D.	Income Limitations	2-4
E.	Mandatory Social Security Numbers	2-5
F.	Citizenship/Eligible Immigration Status	2-6
G.	Other Criteria for Admissions	2-7
H.	Tenant Screening	2-8
I.	Changes in Eligibility Prior to Effective Date Of the Contract	2-9
J.	Ineligible Families	2-10
K.	Prohibited Admissions Criteria	2-11

Chapter 3 Applying for Admission

A.	Introduction	3-1
B.	Overview of the Application Taking Process	3-2

C.	Opening/Closing of Application Taking	3-3
D.	Application Procedures	3-4
E.	Applicant Status While on Waiting List	3-5
F.	Time of Selection	3-6
G.	Completion of a Full Application	3-7
H.	Verification	3-8
I.	Final Determination and Notification of Eligibility	3-9

Chapter 4

Establishing Preferences and Maintaining the Waiting List

A.	Introduction	4-1
B.	Waiting List	4-2
C.	Special Admissions	4-3
D.	Waiting List Preferences	4-4
E.	Local Preferences	4-5
F.	Income Target	4-6
G.	Determination of Local Preference Qualification	4-7
H.	Exceptions for Special Admissions	4-8
I.	Targeted Funding	4-9
J.	Preference and Income Targeting Eligibility	4-10
K.	Order of Selection	4-11
L.	Verification of Preferences	4-12
M.	Preference Denial	4-13
N.	Removal from Waiting List and Purging	4-14

Chapter 5

Subsidy Standards

A.	Introduction	5-1
B.	Determining Family Unit (Voucher) Size	5-2
C.	Exceptions to Subsidy Standards	5-3
D.	Unit Size Selected	5-4

Chapter 6

Factors Related to Total Tenant Payment and Family Share Determination

A.	Introduction	6-1
B.	Income and Allowances	6-2
C.	Disallowance of Earned Income from Rent	
	Determinations for Persons with Disabilities	6-3
D.	Minimum Rent	6-4
E.	Definition of Temporarily/Permanently Absent	6-5
F.	Averaging Income	6-6
G.	Minimum Income	6-7

H.	Income of Person Permanently Confined to Nursing Home	6-8
I.	Regular Contributions and Gifts	6-9
J.	Alimony/Child Support and Other Additions to Assets	6-10
K.	Contributions to Retirement Funds-And Other Assets	6-11
L.	Assets Disposed of for Less Than Fair Market Value	6-12
M.	Child Care Expenses	6-13
N.	Medical Expenses	6-14
O.	Pro-ration of Assistance for “Mixed” Families	6-15
P.	Income Changes Resulting from Welfare Program Requirements	6-16
Q.	Utility Allowance and Utility Reimbursement Payments	6-17

Chapter 7 Verification Procedures

A.	Introduction	7-1
B.	Methods of Verification and Time Allowed	7-2
C.	Release of Information	7-3
D.	Computer Matching	7-4
E.	Items to be Verified	7-5
F.	Verification of Income	7-6
G.	Income from Assets	7-8
H.	Verification of Assets	7-9
I.	Verification of Allowable Deductions from Income	7-10
I.	Verifying Non-Financial Factors	7-11
K.	Verification of Waiting List Preferences	7-12

Chapter 8 Voucher Issuance and Briefings

A.	Introduction	8-1
B.	Issuance of Vouchers	8-2
C.	Briefing Types and Required Attendance	8-3
D.	Encouraging Participation in Areas Without Low Income Or Minority Concentration	8-4
E.	Assistance to Families Who Claim Discrimination	8-5
F.	Security Deposit Requirements	8-6
G.	Term of Voucher	8-7
H.	Voucher Issuance Determination for Split Households	8-8
I.	Remaining Member of Tenant Family – Retention of Voucher	8-9

Chapter 9 Request for Approval of Tenancy and Contract

Execution

A.	Introduction	9-1
B.	Request for Approval of Tenancy	9-2
C.	Eligible Types of Housing	9-3
D.	Lease Review	9-4
E.	Separate Agreements	9-5
F.	Initial Inspections	9-6
G.	Rent Limitations	9-7
H.	Disapproval of Proposed Rent	9-8
I.	Information to Owners	9-9
J.	Owner Disapproval	9-10
K.	Change in Total Tenant Payment (TTP) Prior to HAP Effective Date	9-11
L.	Contract Execution Process	9-12
M.	Change in Ownership	9-13

Chapter 10 Housing Quality Standards and Inspections

A.	Introduction	10-1
B.	Guidelines/Types of Inspections	10-2
C.	Initial HQS Inspection/Actions Before Lease	10-3
D.	Annual HQS Inspections	10-4
E.	Special Inspections	10-5
F.	Acceptability Criteria and Exceptions to HQS	10-6
G.	Emergency Repair Items	10-7
H.	Consequences If Owner Is Responsible (Non-Emergency Items)	10-8
I.	Determination of Responsibility	10-9
J.	Consequences If Family Is Responsible	10-10

Chapter 11 Owner Rents, Rent Reasonableness and Payment Standards

A.	Introduction	11-1
B.	Rent to Owner in the Housing Choice Voucher Program	11-2
C.	Making Payments to Owners	11-3
D.	Rent Reasonableness Determinations	11-4
E.	Payment Standards for the Voucher Program	11-5
F.	Adjustments to Payment Standards	11-6
G.	Exception Payment Standards	11-7
H.	Owner Payment in the Housing Choice Voucher Program	11-8

Chapter 12 Re-certifications

A.	Introduction	12-1
B.	Annual Activities	12-2
C.	Annual Re-Certification/Re-Examination	12-3
D.	Reporting Interim Changes	12-4
E.	Other Interim Reporting Issues	12-5
F.	Income Changes Resulting from Welfare Program	12-6
G.	Notification of Results of Re-Certifications	12-7
H.	Timely Reporting of Changes in Income (and Assets)	12-8
I.	Changes in Voucher Size as a Result of Family Composition Changes	12-9
J.	Continuance of Assistance for “Mixed” Families	12-10
K.	Misrepresentation of Family Circumstances	12-11

Chapter 13
Moves with Continued Assistance/Portability

A.	Introduction	13-1
B.	Allowable Moves	13-2
C.	Restrictions on Moves	13-3
D.	Procedure for Moves	13-4
E.	Portability	13-5
F.	Outgoing Portability	13-6
G.	Incoming Portability	13-7

Chapter 14
Contract Termination

A.	Introduction	14-1
B.	Contract Termination	14-2
C.	Termination by the Family: Moves	14-3
D.	Termination of Tenancy by the Owner: Evictions	14-4
E.	Termination of the Contract	14-5

Chapter 15
Denial or Termination of Assistance

A.	Introduction	15-1
B.	Definitions	15-2
C.	Grounds for Denial/Termination	15-3
D.	Screening and Termination for Drug Abuse and Other Criminal Activity	15-4
E.	Family Obligations	15-5
F.	Housing Authority Discretion	15-6
G.	Procedures for Non-Citizens	15-7
H.	Zero (\$0) Assistance Tenancies	15-8

I.	Option Not to Terminate for Misrepresentation	15-9
J.	Misrepresentation in Collusion with Owner	15-10
K.	Missed Appointments and Deadlines	15-11

Chapter 16
Owner Disapproval and Restriction

A.	Introduction	16-1
B.	Disapproval of Owner	16-2
C.	Owner Restrictions and Penalties	16-3
D.	Change in Ownership	16-4

Chapter 17
Owner or Family Debts to ACOH

A.	Introduction	17-1
B.	Payment Agreement for Families	17-2
C.	Debts Due to Misrepresentations/Non-Reporting of Information	17-3
D.	Debts Due to Minimum Rent Temporary Hardship	17-4
E.	Owner Debts to the ACOH	17-5

Chapter 18
Complaints and Appeal

A.	Introduction	18-1
B.	Complaints	18-2
C.	Preference Denials	18-3
D.	Informal Review Procedures for Applicants	18-4
E.	Informal Hearing and Appeal Provisions	18-5
F.	Hearing and Appeal Provisions for “Restrictions on Assistance to Non-Citizens”	18-6
G.	Mitigating Circumstances for Applicants/Participants with Disabilities	18-7

Chapter 19
Special Housing Types

A.	Introduction	19-1
B.	Single Room Occupancy	19-2
C.	Congregate Housing	19-3
D.	Group Homes	19-4
E.	Shared Housing	19-5
F.	Cooperative Housing	19-6
G.	Manufactured Homes	19-7

Chapter 20
Project Based Vouchers

A.	Introduction	20-1
B.	Program Authority	20-2
C.	Program Policy	20-3
D.	Consistency with Agency Plan and De-concentration Goals	20-4
E.	Tenant Eligibility and Waiting List Procedures	20-5

Chapter 21
Special Programs

A.	Family Self-Sufficiency Program: 24 CFR 962 and 98	21-1
----	--	------

Chapter 22
Violence Against Women Reauthorization Action of 2005 (VAWA)

Chapter 23
Program Integrity

A.	Introduction	23-1
B.	Conflict of Interest	23-2
C.	Criteria for Investigating Suspected Abuse/Fraud	23-3
D.	Steps ACOH will take to Prevent Program Abuse /Fraud	23-4
E.	Steps ACOH will take to Detect Program Abuse/Fraud	23-5
F.	ACOH Handling of all Possible Abuse/Fraud	23-6
G.	ACOH Investigations of Abuse/Fraud	23-7
H.	Placement of Documents, Evidence, and Statements	23-8
I.	Conclusion of ACOH's Investigative Review	23-9
J.	Evaluation of Findings	23-10
K.	Action Procedures for Violations	23-11

Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

1.1 INTRODUCTION: The Section 8 Program derives its authority from the Housing and Community Development Act of 1974, which recodified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, are described in and implemented throughout this Administrative Plan. The Section 8 tenant-based assistance programs are federally funded and administered for Albemarle County by the Albemarle County Office of Housing (ACOH).

Administration of the Section 8 Program and the functions and responsibilities of the Housing Office (ACOH) staff shall be in compliance with Albemarle County's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Regulations as well as all Federal, State, and local Fair Housing Laws and Regulations.

1.2 JURISDICTION: The jurisdiction of the ACOH is Albemarle County VA.

1.3 HOUSING AUTHORITY MISSION STATEMENT: The County of Albemarle Office of Housing (ACOH) shall strive to increase opportunities for all County citizens to secure and maintain decent, safe, sanitary, accessible and affordable housing with special emphasis given to those citizens least able to obtain it.

1.4 FEDERAL & LOCAL GOALS: [24 CFR 982.1]

A. HUD Strategic Goal One: Increase the availability of decent, safe, and affordable housing.

- 1. Local ACOH Goal:** Expand the supply of assisted housing by applying for additional rental vouchers and leveraging private or other public funds to create additional housing opportunities.
- 2. Local ACOH Goal:** Enhance the quality of assisted housing by improving specific management functions such as listings and voucher unit inspections; improving overall voucher management as demonstrated by the SEMAP score; increasing customer satisfaction; providing timely response to voucher holders within 15 business days; and providing replacement vouchers.
- 3. Local ACOH Goal:** Increase assisted housing choices by providing voucher mobility counseling; conducting outreach efforts to potential voucher landlords; and increasing voucher payment standards.

B. HUD Strategic Goal Two: Promote self-sufficiency and asset development of families and individuals

- 1. Local ACOH Goal:** Promote self-sufficiency and asset development of assisted households by increasing the number and percentage of employed persons in assisted families and providing or

attracting supportive services that improve assistance recipients' employability and increase independence for the elderly or families with disabilities.

C. HUD Strategic Goal Three: Ensure Equal Opportunity in Housing for All Americans.

1. **Local ACOH Goal:** Ensure equal opportunity and further fair housing by undertaking affirmative measures to ensure access to assisted housing and a suitable living environment for families living in assisted housing regardless of race, color, religion, national origin, sex, sexual orientation, familiar status, and/or disability, and by continuing to offer diversity training to staff and program participants.

D. Other Local ACOH Goals:

1. To encourage and promote voucher holder participation through a participant advisory board.
2. To assist the local economy by increasing the occupancy rate and the amount of money flowing into the community.
3. To attain and maintain a high level of standards and professionalism in the day to day management of all office activities.
4. To increase grant funded awards to ACOH.
5. To provide decent, safe and sanitary housing for very low income families while maintaining their Total Tenant rent Payments (TTP's) at an affordable level.
6. To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
7. To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families
8. To promote a market-driven housing program that will help qualified low-income families to be successful in obtaining affordable housing and increase the number of housing choices for such families.
9. To encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socio-economic, recreational, and other human services needs.

1.5 PURPOSE OF THE ACOH ADMINISTRATIVE PLAN: [24 CFR 982.54] The purpose of the Administrative Plan is to clearly establish the ACOH's Section 8 policies and to ensure that these policies are consistent with both HUD requirements and local goals and objectives. The Housing Choice Voucher Program was implemented on October 1, 1999, and pre-merger Housing Voucher tenancies and Over Fair Market Rent tenancies converted automatically to Housing Choice Voucher tenancies on that date. The ACOH is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The ACOH will revise this Administrative Plan to comply with changes in HUD regulations. The Board of Commissioners of the agency must approve the original Plan and any changes. The pertinent sections must be included in the Agency Plan, with a copy provided to HUD.

This Administrative Plan is a supporting document to the ACOH Agency Administrative Plan, and is available for public review as required by CFR 24 Part 903. Applicable regulations include:

- 24 CFR Part 1: Nondiscrimination in federally Assisted Programs of HUD-Effectuation of Title VI of the Civil Rights Act of 1964
- 24 CFR Part 5: General Program Requirements: Waivers (Subparts A through H)
- 24 CFR Part 8: Nondiscrimination based on handicap in federally Assisted Programs
- 24 CFR Part 35: Lead-Based Paint Poisoning Prevention in Certain Residential Structure (Subpart A, B and M)
- 24 CFR Part 100: Discriminatory Conduct under the fair Housing Act
- 24 CFR Part 888: Section 8 Housing Assistance Payment Program – Fair Market Rents and Contract Rent Annual Adjustment Factors (Subparts A and B)
- 24 CFR Part 908: Electronic Transmission of Required Family Data for Public Housing, Indian Housing, and the Section 8 Rental Voucher, and the Moderate Rehabilitation Programs
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Section 8 Project-Based Certificate Program
- 24 CFR Part 984: Section 8 Family Self-Sufficiency Program
- 24 CFR Part 985: Section 8 Management Assessment Program (SEMAP)

1.6 ADMINISTRATIVE FEE RESERVE: [24 CFR 982.54(d)(21)] Expenditures from the Administrative Reserve (Operating Reserve) for rental assistance payments shall not exceed \$ 0.00 per occurrence nor more than \$0.00 in the aggregate for each fiscal year without the prior approval of the Albemarle County Board of Supervisors.

1.7 RULES AND REGULATIONS: [24 CFR 982.52] This Administrative Plan is set forth to define the local policies governing ACOH's housing programs. All issues related to Section 8 not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with all HUD-approved applications for program funding.

1.8 TERMINOLOGY: The following words, terms, and phrases, when used in this policy, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. Albemarle County Office of Housing is referred to as ACOH or Housing Office throughout this document.

- B. Family is used interchangeably with Applicant or Participant and can refer to a single person family.
- C. Tenant is used to refer to participants in terms of their relation to landlords.
- D. Landlord and owner are used interchangeably.
- E. Disability is used where handicap was formerly used.
- F. Non-citizens Rule refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.
- G. Section 8 Programs are also known as the Housing Choice Voucher Program.
- H. HQS means the Housing Quality Standards required by regulations as enhanced by ACOH.
- I. Failure to Provide refers to all requirements in the first Family Obligation. See Denial or Termination of Assistance chapter.
- J. Merger date refers to October 1, 1999, which was the effective date of the merging of the Section 8 Certificate and Voucher programs into the Housing Choice Voucher Program.

1.9 FAIR HOUSING POLICY: [24 CFR 982.54(d)(6)] It is the policy of the Housing Office to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

ACOH shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, sexual orientation, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability.

To further its commitment to full compliance with applicable Civil Rights laws, the ACOH will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request.

To keep current with new developments, all Housing Office staff will be required to attend fair housing trainings, such as those sponsored by HUD and other local organizations.

ACOH will inform employees of the importance of furthering fair housing and providing equal opportunity to all families. ACOH will provide reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters shall be posted throughout the Housing office, including in the lobby and the equal opportunity logo will be used on all outreach materials. Except as otherwise provided in 24 CFR 8.21(c)(1), 24 CFR 8.24(a), 24 CFR 8.25, and 24 CFR 8.31, no individual with disabilities shall be denied the benefits of, be excluded from

participation in, or otherwise be subjected to discrimination because ACOH facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout ACOH office in such a manner as to be easily readable from a wheelchair.

The ACOH office is accessible to persons with disabilities. Accessibility for the hearing impaired will be accommodated through a Telephonic Device for the Deaf (TDD) or other similar device.

1.10 REASONABLE ACCOMMODATIONS POLICY: [24 CFR 100.202]

A. General Policy: It is the policy of ACOH to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.

ACOH's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services.

B. Procedure for Obtaining Accommodation:

1. A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the ACOH will treat a person differently.
2. ACOH has specific eligibility requirements, which are set forth in subsection C below.
3. Once the person's status as a qualified person with a disability is confirmed, ACOH will obtain verification that the person needs the specific accommodation due to their disability. ACOH will determine whether the accommodation is required for an individual to have equal access to the housing program.
4. The ACOH will then provide a written decision to the person requesting the accommodation within a reasonable time. This written response shall accept the accommodation, suggest an alternative accommodation, and/or deny the accommodation.
5. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal conference to review ACOH's decision.

C. Eligibility: To be eligible to request a reasonable accommodation, the requester must certify or verify upon request that they are a person with a disability under the following ADA definition:

1. A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
2. A record of such impairment; or
3. Being regarded as having such an impairment

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 24 CFR 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

D. Verification of Disability: ACOH will verify disabilities under definitions in the Fair Housing Amendments Act of 1988 [42 USCS 3602], the 1973 Rehabilitation Act [29 USCS 701 et seq.] and the Americans with Disabilities Act [42 USCS 12101].

E. Undue Administrative Burden: If ACOH finds that the requested accommodation creates an undue administrative or financial burden, ACOH will deny the request and/or present an alternate accommodation that will still meet the need of the individual.

1. Undue Administrative Burden: An undue administrative burden is one that requires a fundamental alteration of the essential functions of ACOH (i.e., waiving a family obligation) or other health and safety concerns.

2. Undue Financial Burden: An undue financial burden is one that, when considering the available resources of the agency as a whole, would pose a financial hardship on ACOH.

F. Advocates: Reasonable accommodations will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide information on behalf of an individual requesting accommodation. This individual (with permission) will be allowed to speak for the participant with a disability.

1.11 APPLYING FOR ADMISSION: All persons who wish to apply for any of ACOH programs must submit a pre-application that follows the terms of the ACOH public notice. Applications will be made available in an accessible format upon request from a person with a disability.

To provide specific accommodations to persons with disabilities, upon request, the information may be mailed to the applicant and, if requested, it will be mailed in an accessible format.

When the applicant's name comes up on the waiting list, ACOH will verify the application at the eligibility appointment. Applicants are interviewed by ACOH staff to review the information on the application form.

Verification of disability as it relates to the Fair Housing Amendments Act of 1988 or the 1973 Rehabilitation Act, or reasonable accommodation, as it relates to the Americans with Disabilities Act, may be requested at this eligibility meeting.

The application will also include questions asking all applicants whether reasonable

accommodations are necessary.

1.12 TRANSLATION OF DOCUMENTS: In determining whether it is feasible to provide translation of documents written in English into other languages, the ACOH will consider the following factors:

1. Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
2. The availability of local organizations to provide translation services to non-English speaking families.

1.13 MANAGEMENT ASSESSMENT OBJECTIVES: ACOH operates its housing assistance program with efficiency and can demonstrate to HUD auditors that ACOH is using its resources in a manner that reflects its commitment to quality and service.

A. ACOH policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators.

1. Selection from the Waiting List
2. Reasonable Rent
3. Determination of Adjusted Income
4. Utility Allowance Schedule
5. HQS Quality Control Inspections
6. HQS Enforcement
7. Expanding Housing Opportunities
8. Payment Standards
9. Annual Re-examinations
10. Correct Tenant Rent Calculations
11. Annual HQS Inspections
12. Lease-up
13. Family Self-Sufficiency Enrollment and Escrow Account Balances

B. Supervisory quality control reviews will be performed by a ACOH Supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

1. Selection from the waiting list
2. Rent reasonableness
3. Determination of adjusted income
4. HQS Enforcement
5. HQS Quality Control

The annual sample of files and records will be drawn in an unbiased manner, leaving a

clear audit trail. The minimum sample size to be reviewed will relate directly to each factor.

1.14 RECORDS FOR MONITORING PERFORMANCE: In order to demonstrate compliance with HUD, local, state and federal regulations, ACOH will maintain records, reports and other documentation in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and/or assess ACOH procedures objectively and with accuracy. ACOH will retain files in accordance with SEMAP requirements and will conduct internal supervisory audits.

In addition to the SEMAP documentation and in compliance with 24 CFR 985.2, supervisory staff shall require an audit of the following functions (Quality Control Sample):

- A. Not less than ten percent of re-examinations
- B. Not less than ten percent of new applications
- C. Not less than ten percent of claims processed

1.15 PRIVACY RIGHTS: [24 CFR 982.551 and 24 CFR 5.212] Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Notice and describes the conditions under which HUD/ ACOH will release family information.

ACOH's policy regarding release of information is in accordance with Federal, State and local laws which may restrict the release of family information. The collection, maintenance, use and dissemination of personal information and income shall be conducted, whenever possible, in accordance with the Privacy Act, 5 U.S.C. 552 (a).

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. The Rental Assistance Coordinator must approve all requests for access and granting of accommodations based on this.

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

ACOH staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

1.16 FAMILY OUTREACH: ACOH will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When the ACOH's waiting list is open, the ACOH will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, and by other suitable means.

In order to reach persons who cannot read the newspapers, ACOH will distribute fact sheets to the broadcasting media.. ACOH will also utilize public service announcements.

ACOH will communicate the status of housing availability to other service providers in the community, and advise them of housing eligibility factors and guidelines to promote proper referrals for housing assistance.

1.17 OWNER OUTREACH: [24 CFR 982.54(d) (5)] ACOH makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements.

ACOH encourages owners of decent, safe and sanitary housing units to lease to Section 8 families.

ACOH encourages participation by owners of suitable units located outside areas of low poverty or minority concentration.

ACOH staff initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

Printed material is offered to acquaint owners and managers with the opportunities available under the program

ACOH will also do all of the following pursuant to their discretionary policies:

- A.** Maintain a list of interested landlords for the Section 8 Program and update this list at least annually.
- B.** Maintain lists of available housing submitted by owners in all neighborhoods within ACOH 'jurisdiction to ensure greater mobility and housing choice to very low-income households. Provide lists of owners at the front desk, by mail, and at briefings.
- C.** Initiate personal contact with private property owners and managers by conducting formal and informal discussions and meetings.
- D.** Offer printed material to acquaint owners and managers with the opportunities available under the program.
- E.** Actively participate in a community-based organization(s) comprised of private property and apartment owners and managers.
- F.** Actively recruit owners with property located outside areas of minority and poverty concentration and apply for exception payment standards if ACOH determines it is necessary to make the program more accessible in ACOH jurisdiction.
- G.** Encourage program participation by owners of units located outside areas of poverty or minority concentration. Inform voucher holders of a broad range of areas where they may lease units inside ACOH jurisdiction and provide a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.
- H.** ACOH shall periodically:

1. Develop working relationships with owners and real estate broker associations.

2. Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displacements.

3. Explain the program, including equal opportunity requirements and nondiscrimination requirements, including Fair Housing Amendments Act of 1988 and Americans with Disabilities Act, to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

Chapter 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

2.1 INTRODUCTION: This Chapter defines both HUD and ACOH criteria for admission and denial of admission to the program. The policy of ACOH is to objectively and consistently apply eligibility criteria to evaluate applicants. The ACOH staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by ACOH pertaining to their eligibility.

2.2 ELIGIBILITY FACTORS: [982.201(b)] ACOH accepts applications only from families whose head or spouse is at least 18 years of age or emancipated minors under State law.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by ACOH.

The HUD eligibility criteria are:

1. An applicant must be a "family" of one or more persons
2. An applicant must be within the appropriate Income Limits
3. An applicant must furnish Social Security Numbers for all family members age six and older
4. An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required. At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before ACOH may provide any financial assistance.

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" chapter. These reasons for denial constitute additional admission criteria.

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Eligibility factors and claimed preferences will not be verified until the family is selected from the waiting list.

2.3. FAMILY COMPOSITION: [24 CFR 982.201(c)] The applicant must qualify as a Family. A Family may be a single person or a group of persons living together as a household unit.

A single person family may be: (1) an elderly person, (2) a displaced person; (3) a person with a disability; (4) any other single person. Individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space

available for other family members.

A family also includes: (1) two or more persons who intend to share residency whose income and resources are available to meet the family's needs or (2) two or more elderly or disabled persons living together, or one or more elderly, near elderly or disabled persons living with one or more live-in aides.

A. Head of Household: The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household.

B. Spouse of Head: Spouse means the husband or wife of the head. For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

C. Co-Head: The co-head is an individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

D. Live-in Attendants

1. A family may include a live-in aide in accordance with 24 CFR 5.403 a person who:
 - a. Is determined by ACOH to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,
 - b. Is not obligated for the support of the person(s), and
 - c. Would not be living in the unit except to provide care for the person.
2. A live-in aide is treated differently than family members:
 - a. Income of the live-in aide will not be counted for purposes of determining eligibility or the level of benefits.
 - b. Live-in aides are not subject to Non-Citizen Rule requirements.
 - c. Live-in aides may not be considered as a remaining member of the tenant family.
3. Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.
4. A Live-in Aide may only reside in the unit with the approval of ACOH. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly

(50-61) or disabled.

5. ACOH will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section of this administrative plan.

6. At any time, ACOH may refuse to approve a particular person as a live-in aide or may withdraw such approval if: [24 CFR 982.316]

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

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

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

E. Split Households Prior to Voucher Issuance: When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, ACOH will make the decision taking into consideration the following factors:

1. Which family member applied as head of household.
2. Which family unit retains the children or any disabled or elderly members.
3. Role of domestic violence in the split.
4. Recommendations of social service agencies or qualified professionals such as children's protective services.

F. Multiple Families in the Same Household: When families consisting of two families living together (i.e. a mother and father, and a daughter with her own husband and/or children) apply as a family unit, they will be treated as a family unit.

G. Joint Custody of Children: Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

2.4. INCOME LIMITATIONS: [24 CFR 982.201(b), 24 CFR 982.353] To be eligible for assistance, an applicant must have an Annual Income at the time of admission that does not exceed the "very low income" limits for occupancy established by HUD.

To be income eligible the applicant must be a family in the very low-income category, which is a family whose income does not exceed 50 percent of the area median income. ACOH will not admit families whose income exceeds 50 percent of the area median income except those families included in 24 CFR 982.201(b).

A. To be income eligible the family may be under the low-income limit in any of the following categories: [24 CFR 982.201(b)]

1. A very low-income family.

2. A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within **120** days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act. [42 USCS §1437f]

3. A low-income family physically displaced by rental rehabilitation activity.

4. A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.

5. A low-income non-purchasing family residing in a project subject to a home-ownership program.

6. A low-income family or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract.

7. A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.

B. To determine if the family is income-eligible, ACOH compares the Annual Income of the family to the applicable income limit for the family's size.

C. Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

D. Portability: For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

2.5 MANDATORY SOCIAL SECURITY NUMBERS: [24 CFR 5.216, 5.218]

Families are required to provide verification of Social Security numbers for all family members age 6 and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of Social Security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security number must sign a certification that they have never been issued a Social Security number.

Persons who disclose their Social Security number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification within 120 days.

2.6. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS: [24 CFR Part 5, Subpart E]

A. In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

1. Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination.

2. All members ineligible. Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

3. Non-citizen students. These applicants, as defined by HUD in the non-citizen regulations at 24 CFR 5.522, are not eligible for assistance.

4. Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

B. ACOH will not provide assistance to families prior to eligibility verification of the individual or at least one member of the family pursuant to this section.

2.7. OTHER CRITERIA FOR ADMISSIONS: [24 CFR 982.552(b)]

A. A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past 3 years.

B. A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by ACOH, including Form HUD-9886.

C. ACOH will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

1. The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before ACOH will allow participation in its Section 8 program.

2. The family must not have violated any family obligation during a previous participation in the Section 8 program for three (3) years prior to final eligibility determination.

3. The family must pay any outstanding debt owed ACOH or other PHA as a result of prior participation in any federal housing program within 30 days of ACOH notice to repay.

D. ACOH will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as described in “Denial or Termination of Assistance” chapter.

E. If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, ACOH may deny assistance.

2.8 TENANT SCREENING: [24 CFR 982.307)]

A. ACOH will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

B. ACOH will not be liable or responsible to the owner or other persons for the family’s behavior or the family’s conduct in tenancy.

C. The owner is responsible for screening and selection of the family to occupy the owner’s unit. At or before ACOH approval of the tenancy, ACOH will inform the owner that screening and selection for tenancy is the responsibility of the owner.

D. The owner is responsible for screening families based on their tenancy histories, including such factors as: [24 CFR 982.307(a) (3)]

1. Payment of rent and utility bills
2. Caring for a unit and premises
3. Respecting the rights of other residents to the peaceful enjoyment of their housing
4. 24 CFR 982.553 regulations that any household member who has ever been convicted of drug- related criminal activity for manufacture or production of methamphetamine on the premises of federal assisted housing. Also in addition the PHA must establish the standards that prohibit admission to the program if any member of the household is submitted to a lifetime registration requirement under a State sex offender registration program; and
5. Compliance with other essential conditions of tenancy.

E. ACOH will give the owner:

1. The family’s current and prior address as shown in the ACOH records; and
2. The name(s) and address(es) (if known by ACOH) of the family’s current and prior landlords.

F. The same types of information will be supplied to all owners.

G. ACOH will advise families how to file a complaint if they have been discriminated against by an owner. ACOH will advise the family to make a Fair Housing complaint. ACOH may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

2.9. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT: Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment.

2.10. INELIGIBLE FAMILIES: Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

2.11. PROHIBITED ADMISSIONS CRITERIA: [24 CFR 982.202(b)] Admission to the program may not be based on:

- A. Where a family lives prior to admission to the program.
- B. Where the family will live with assistance under the program.
- C. Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- D. Discrimination because a family includes children.
- E. Whether a family decides to participate in a family self sufficiency program;
or
- F. Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

Chapter 3

APPLYING FOR ADMISSION

[24 CFR 982.204]

3.1 INTRODUCTION: The policy of the ACOH is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for the following: (1) completing an initial application for assistance, (2) placement on the waiting list, (3) denial of placement and (4) limitations on who may apply.

These admission procedures (hereinafter called “Intake”) function as a means of gathering information about a family, and providing information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

3.2 OVERVIEW OF THE APPLICATION TAKING PROCESS: The first step is the taking of applications. The application enables ACOH to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

When there is an open waiting list, families who wish to apply for any one of the ACOH programs must complete a written application form. Applications will be made available in an accessible format upon request from a person with a disability. Interested persons may apply by stopping by the ACOH office at 1600 5th Street in Charlottesville, Virginia.

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

Applications will be mailed to interested families upon request.

Completion of the application enables ACOH to place an applicant family on the waiting list. The application will be dated, time-stamped, and referred to ACOH ‘s waiting list.

Initial applications will not require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined during the second phase when the full application process is completed and all information is verified.

The second phase is when there is an eligibility determination by ACOH. The eligibility review occurs when the application reaches the top of the waiting list. At this time, ACOH ensures that verification of all HUD and ACOH eligibility factors are current in order to determine the family's eligibility for the issuance of a voucher.

3.3. OPENING/CLOSING OF APPLICATION TAKING: [24 CFR 982.206, 24 982.54(d)(1)]

A. Procedures for Opening the Waiting List: ACOH will utilize the following procedures for opening the waiting list:

When ACOH opens the waiting list and accepts applications, ACOH will

advertise and provide notice to the following newspapers, minority publications and media entities, location(s), and program(s):

Charlottesville *Daily Progress*: 978-7200
Albemarle Housing Improvement Program: 817-2447
ARC of the Piedmont: 977-4002
Legal Aid Justice Center: 977-0553
FOCUS: 293-2222
Greater Charlottesville Habitat for Humanity: 293-9066
Independent Resource Center: 971-9629
Jefferson Area Board for Aging: 817-5222
Monticello Area Community Action Agency (MACAA): 295-

3171

Piedmont Housing Alliance: 817-2436
Region Ten Community Service Board: 972-1800
Salvation Army: 295-4058
Shelter for Help in Emergency (SHE): 293-6155
Thomas Jefferson Planning District Commission: 979-7310
United Way Information & Referral (I&R): 972-1703
CRHA: 984-3255
Neuters Raices: (540) 271-1279
Charlottesville-Albemarle Tribune: 989-0373
Piedmont Legal Service: 296-8851

The notice will contain:

- 1. The dates, times, and the locations where families may apply.**
- 2. The programs for which applications will be taken.**
- 3. A brief description of the program.**
- 4. Limitations, if any, on who may apply.**

Upon request, the notices will be made in an accessible format. Notices will provide potential applicants with information on ACOH address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Upon request from a person with a disability, additional time after the closing deadline will be given as an accommodation for submission of an application. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

If the waiting list is open, ACOH will accept applications from eligible families unless there is good cause for not accepting the application. Such good cause may include but shall not be limited to a denial of assistance because of action or inaction by members of the family or for any other grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b)(2)]

- B. Closing the Waiting List:** ACOH may stop applications if there are enough applicants to fill anticipated openings for the next 12 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

ACOH will announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 12 months. When the period for accepting applications is over, ACOH will add the new applicants to the list by preference.

- C. Limits on Who May Apply:** When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

3.4 "INITIAL" APPLICATION PROCEDURES: [24 CFR 982.204(b)] ACOH will utilize a standard application form. The information is to be filled out by the applicant whenever possible.

The application will contain at least the following information:

1. **Applicant name;**
2. **Family Unit Size (number of bedrooms the family qualifies for under CRHA subsidy standards);**
3. **Date and time of application;**
4. **Qualification for any local preference;**
5. **Racial or ethnic designation of the head of household;**
6. **Annual (gross) family income;**
7. **Social Security Number of head of household;**

When the waiting list is open, all families who successfully complete the application process will be placed on the waiting list.

Applications will require an interview when the family reaches the top of the waiting list. The information on the application will be verified to determine final eligibility. Final eligibility will be determined when the full application process is completed and all information is verified.

3.5. APPLICANT STATUS WHILE ON WAITING LIST: [CFR 982.204] During the initial phase period, applicants are required to inform ACOH [in writing] of changes in address. Applicants are also required to respond to requests from ACOH to update information on their application and to determine their interest in assistance.

If after a review of the application, the family is determined to have adequately completed the application, they will be notified in writing or in an accessible format upon request, as a reasonable accommodation, of their placement on the waiting list.

This written notification of placement on the waiting list will be: (1) mailed to the applicant by first class mail or (2) distributed to the applicant in the manner requested as a specific accommodation.

If the family is not placed on the waiting list due to an incomplete application, ACOH will (1) notify the family in writing or in an accessible format upon request as a

reasonable accommodation, (2) state the reason(s), and (3) inform them of their right to an informal review. See "Complaints and Appeals" chapter.

Throughout the process, all applicants are required to inform ACOH in writing of changes in their address. Applicants are also required to respond to requests from ACOH to update information on their application and to determine their interest in assistance.

3.6 TIME OF SELECTION: [24 CFR 982.204] All selections for vouchers are subject to income targeting requirements (hereinafter the "income target") that the family be at or below Very Low incomes currently at 50% of the Area Median Income. When funding is available, families will be selected from the waiting list in their determined sequence, regardless of family size, provided that all selections combined meet the income target.

When there is insufficient funding available for the family at the top of the list, ACOH will not admit any other applicant until funding is available for the first applicant.

Applicants will be selected from the waiting list by preference priority and as determined by a system generated random sort. The random sort will be conducted each time ACOH re-opens the waiting list.

Applicants will be denied assistance and removed from the list for the following reasons:

- Determined ineligible as a result of the initial phase of determination.
- The applicant does not respond to the requested information or cannot provide the information necessary for ACOH to verify the applicant's status for program selection within a 10 day period. ACOH may grant an exception where the applicant's failure to respond is caused by the applicant's disability, any circumstances beyond the applicant's control, or other good cause as determined by ACOH.
- The applicant is no longer eligible for the tenant-based program as a result of program selection verification that is conducted within 60 days of anticipated voucher issuance. (Note: The applicant is not removed from the waiting list based on preference change).
- ACOH determines that fraud has been committed in completing the application.
- The applicant has refused offers of tenant-based assistance under the voucher program.
- The applicant has been admitted into the voucher program.

ACOH may not take any of the following actions because an applicant has applied for, received, or refused housing assistance:

- Refuse to list the applicant on ACOH waiting list for the remaining type of housing assistance.
- Deny admission preference for which the applicant is otherwise qualified.
- Remove the applicant from another waiting list.

3.7 COMPLETION OF A FULL APPLICATION AND INTERVIEW: All preferences claimed on the application or while the family is on the waiting list will be verified when the family's name comes to the top of the waiting list. The qualification for preference must exist at the time the preference is claimed and at the time of verification.

After the preference is verified, the applicant will be required to:

- Complete a Personal Declaration Form prior to the full application interview.
- Complete and sign the full application. The applicants must complete the application in their own handwriting unless assistance is needed. Applicants may request a reasonable accommodation for completion of an application. ACOH staff will interview the applicant to review the information on the full application form.

A. Requirement to Attend Interview: ACOH utilizes the application interview to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other ACOH services or programs which may be available.

All adult family members are required to attend the interview and sign the housing application.

Exceptions may be made for students attending school out of state/for members for whom attendance would be a hardship.

If the head of household cannot attend the interview, the spouse may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within 10 days to review the information and to certify by signature that all of the information is complete and accurate.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

B. Failure to Appear for Interview: If an applicant fails to appear for a pre-scheduled appointment, it is the applicant's responsibility to call within 5 days to reschedule. If the applicant does not reschedule or misses two scheduled meetings, ACOH will reject the application and remove the applicant from the waiting list.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review. (See "Complaints and Appeals" chapter.)

C. Forms and Request for Additional Information: All adult members must sign the following:

1. HUD Form 9886
2. the application form
3. the declarations and consent forms related to citizenship/immigration status, and
4. any and all supplemental forms required by ACOH.

Applicants will be required by ACOH to sign specific verification forms for information that is not covered by the HUD Form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by ACOH.

Every adult household member must sign a consent form to release criminal conviction records and to allow ACOH to receive records and use them in accordance with HUD regulations.

If ACOH determines at or after the interview that additional information or documentation is needed, ACOH will request the information or documentation in writing. The family will be given 10 business days to supply the information.

If the information is not supplied in this time period, ACOH will provide the family a notification of denial for assistance. (See "Complaints and Appeals" chapter).

Applicants must comply with requests from ACOH to update information.

3.8. VERIFICATION: [24 CFR 982.201(e)] Information provided by the applicant will be verified, using the verification procedures in the "Verification Procedures" chapter. All of the following types of information must be verified: (1) family composition, (2) income, (3) allowances and deductions, (4) assets, (5) full-time student status, (6) eligibility (7) rent calculation factors, and (8) any other pertinent information provided to ACOH. Verifications may not be more than 30 days old at the time of issuance of the Voucher.

Applicants are required to inform ACOH in writing within 30 calendar days of any changes in family composition, income, and address as well as any changes in their preference status.

3.9 FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY: [24 CFR 982.201] After the verification process is completed, ACOH will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by ACOH, and the current eligibility criteria in effect. If the family is determined to be eligible, ACOH will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

Chapter 4

REVISED HCV POLICY 04/12/2012

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

[24 CFR Part 5, Subpart D; 24 CFR 982.54(d)(1); 24 CFR 982.204, 24 CFR 982.205,
24 CFR 982.206]

4.1 INTRODUCTION: It is the ACOH's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan.

This chapter explains the local preference that ACOH has adopted to meet local housing needs, defines the eligibility criteria for the preference and explains ACOH's system of applying it.

By maintaining an accurate waiting list, the ACOH will be able to ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

4.2 WAITING LIST: [24 CFR 982.204] The ACOH uses a single waiting list for admission to its Section 8 tenant-based assistance program. Except for Special Admissions, applicants will be selected from the ACOH waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan. The ACOH will maintain information that permits proper selection from the waiting list.

The waiting list contains the following information for each applicant listed:

- A. Applicant name**
- B. Family unit size (number of bedrooms family qualifies for under ACOH subsidy standards)**
- B. Date and time of application**
- C. Qualification for any local preference**
- D. Racial or ethnic designation of the head of household**
- E. Annual (gross) family income**
- F. Number of persons in family**
- G. Social Security number**
- H. Targeted program qualifications**

4.3 SPECIAL ADMISSIONS: [24 CFR 982.54(d)(e), 24 CFR 982.203] If HUD awards ACOH program funding that is targeted for specifically named families, the ACOH will admit these families under a Special Admission procedure. The ACOH will use this targeted assistance only for the designated families.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The ACOH maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A. A family displaced because of demolition or disposition of a public or Indian housing project;**
- B. A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;**
- C. For housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990;**
- D. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and**
- E. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.**

4.4 WAITING LIST PREFERENCES: [24 CFR 982.207] If an applicant makes a false statement in order to qualify for a local preference, the ACOH will deny the local preference.

4.5 LOCAL PREFERENCES: [24 CFR 982.207] The ACOH will offer public notice and comment when changing its preference system and the notice will be publicized using the same guidelines as those for opening and closing the waiting list.

The ACOH uses the following local preference system:

- A. Residency Preference: families who live, work, or have been recently hired in the County of Albemarle.**

Due to volume of applications received when ACOH opens the waiting list, ACOH only opens the list for a short period of time. Since the list is open for such a limited period of time and in order to not penalize any individuals that can not apply immediately when the list first becomes open, ACOH will not consider time and date of application in sorting the waiting list. Rather, ACOH will use a random selection or lottery system to order the waiting list. As ACOH has only one preference, all applicants with a residency preference will be sorted within one group and will all be placed higher on the list than those without the preference who will all be sorted within a second group.

Single applicants will be treated as any other eligible family on the waiting list.

4.6 INCOME TARGET: In accordance with the Quality Housing and Work Responsibility Act of 1998 [42 USCS 1437f], each fiscal year the ACOH will reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as "extremely low-income families." The ACOH will admit families who qualify under the Extremely Low Income limit to meet the income target requirement, regardless of preference.

The ACOH's income target requirement does not apply to low income families

continuously assisted as provided for under the 1937 Housing Act.

The ACOH is also exempted from this requirement where the ACOH is providing assistance to low income or moderate-income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out.

At Moderate Rehabilitation properties and projects with Project-Based vouchers at least forty percent of new admissions in each fiscal year must be families with income levels at or below 30 percent of the area median income.

JURISDICTIONS SERVED BY MORE THAN ONE HOUSING AGENCY:

HUD will treat multiple Housing Agencies serving one jurisdiction as a single Housing Agency for income targeting purposes. The ACOH will cooperate with the Virginia Housing Development Authority (VHDA), also serving Albemarle County, to assure that the aggregate admissions comply with the seventy-five percent targeted income requirement for the jurisdiction.

4.7 DETERMINATION OF LOCAL PREFERENCE QUALIFICATION: [24 CFR 982.207] At the time of application, an applicant's entitlement to a local preference is assumed to be true and the individual is placed on the waiting list.

The ACOH will verify the preference claim at the time when the family comes up on the waiting list. The ACOH will also re-verify the preference claim, at any time the ACOH feels the family's circumstances have changed.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list without the local preference and given an opportunity for an informal hearing.

4.8 EXCEPTIONS FOR SPECIAL ADMISSIONS: [24 CFR 982.203, 24 CFR 982.54(d)(3)] If HUD awards a HA program funding that is targeted for specifically named families, the ACOH will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The ACOH maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A. A family displaced because of demolition or disposition of a public or Indian housing project;**
- B. A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;**
- C. For housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990;**
- D. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and**
- E. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.**

4.9 TARGETED FUNDING: [24 CFR 982.203] When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under targeted funding which are not identified as a Special Admission are identified by codes in the automated system. The ACOH has the following "Targeted" Programs:

A. Family Unification Program

4.10 PREFERENCE AND INCOME TARGETING ELIGIBILITY: [24 CFR 982.207]

A. Change in Circumstances: Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the ACOH in writing when their circumstances change.

When an applicant qualifies for the residency preference after the section of the waiting list with the residency preference has been randomly sorted, s/he will be placed at the bottom of group with the residency preference. That part of the list will not be re-sorted.

ACOH will not sort the section of the waiting list without the residency preference until it has processed all applicants with the residency preference. Thus, if someone loses their residency preference, they will be moved to the section of the waiting list without the residency preference and will be included in the random sort when it occurs.

B. Cross-Listing of Different Housing Programs and Section 8: [24 CFR 982.205(a)] If the waiting list for the ACOH's project-based voucher program or moderate rehabilitation program is open at the time an applicant applies for Section 8, the ACOH must offer to place the family on its waiting lists for the other programs.

C. Other Housing Assistance: [24 CFR 982.205(b)] Other housing assistance means a federal, State or local housing subsidy, as determined by HUD, including public housing.

The ACOH may not take any of the following actions because an applicant has applied for, received, or refused other housing: [24 CFR 982.205(b)]

1. Refuse to list the applicant on the ACOH waiting list for tenant-based assistance;
2. Deny any admission preference for which the applicant is currently qualified.
3. Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the ACOH selection policy; or

4. Remove the applicant from the waiting list. However, the ACOH may remove the applicant from the waiting list for tenant-based assistance if the ACOH has offered the applicant assistance under the voucher program.

4.11 ORDER OF SELECTION: [24 CFR 982.207(e)] The ACOH's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the Administrative Plan.

A. Local Preferences *: Local preferences will be used to select families from the waiting list. The ACOH has selected the following system to apply local preferences: (See 2-3)

1. Individuals with the residency preferences will be placed higher on the waiting list than individuals without a residency preference.

B. Among Applicants with Equal Preference Status: Among applicants with equal preference status (1 – those with the residency preference and 2 – those without the residency preference), the waiting list will be sorted randomly without consideration of application date or time.

4.12 VERIFICATION OF PREFERENCES: [24 CFR 982.207] Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the ACOH will obtain necessary verifications of preference at the interview and by third party verification.

4.13 PREFERENCE DENIAL: [24 CFR 982.207] If the ACOH denies a preference, the ACOH will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal meeting with a staff person not directly involved with the decision to deny the preference. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant intentionally falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the waiting list.

4.14 REMOVAL FROM WAITING LIST AND PURGING: [24 CFR 982.204(c)] The Waiting List will be purged approximately every twelve months by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state that failure to respond within 30 days will result in the applicant's name being dropped from the waiting list.

An extension of 30 days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If the applicant did not respond to the ACOH request for information or updates because

of a family member's disability, the ACOH will reinstate the applicant in the family's former position on the waiting list.

If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Chief of Housing determines there were circumstances beyond the person's control, such as non-receipt of mailing, or a medical basis for the delay, or other good cause.

Section 8 Policy #1005:

Assigned staff must generate the Section 8 Waiting List quarterly and review it for consistency. Discrepancies / errors will be documented and a corrective action plan developed and implemented if necessary. Record of quality control reviews and subsequent documentation will be maintained in the Housing Office by the Rental Assistance Coordinator.

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

5.1 INTRODUCTION: HUD guidelines require that the ACOH establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards (HQS).

This Chapter explains the subsidy standards that will be used to determine the voucher size (family unit size) for families. This chapter also addresses the ACOH's procedures when a family's size changes, or a family selects a unit size that is different from the Voucher.

5.2 DETERMINING FAMILY UNIT (VOUCHER) SIZE: [24 CFR 982.402]

- A. Overview:** The ACOH does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The ACOH's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

For subsidy standards, an adult is a person 18 years old or older.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

- B. Guidelines for Voucher Size:** Generally, the ACOH assigns one bedroom to two people within the following guidelines:

1. Persons of different generations, adults of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom.

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

3. Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

4. Space may be provided for a child who is away at school but who lives with the family during school recesses.

5. Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

6. A single pregnant woman with no other family members must be treated as a two-person family.

7. Single person families shall be allocated one bedroom.

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	Persons in Household	
	Minimum Number	Maximum Number
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	6	10

5.3 EXCEPTIONS TO SUBSIDY STANDARDS: [24 CFR 982.403(a) & (b)] The ACOH shall grant exceptions from the subsidy standards if the family requests an exception and the ACOH determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

The ACOH will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a verified medical or health reason or other good cause.

A. Request for Exceptions to Subsidy Standards: The family may request a larger sized voucher than indicated by the ACOH's subsidy standards. Such request must be made in writing within 10 business days of the ACOH's determination of bedroom size. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate.

Requests based on health related reasons must be verified by a doctor, medical expert, social service agency or other professional deemed appropriate by ACOH in its sole discretion.

B. ACOH Error: If the ACOH errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

C. Changes for Applicants: The voucher size is determined prior to the briefing by comparing the family composition to the ACOH subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the ACOH subsidy standards, the above-referenced guidelines will apply.

D. Changes for Participants: The members of the family residing in the unit must be approved by the ACOH. The family must obtain approval of any additional family member before the new member occupies the unit except for

additions by birth, adoption, or court-awarded custody, in which case the family must inform the ACOH within 30 days. The above referenced guidelines will apply.

E. Under-housed Families: If a unit does not meet HQS space standards due to an increase in family size (unit too small), the ACOH will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

When a change in family composition requires a larger voucher size and no funds are available, the family will be issued the next available voucher change.

The ACOH will notify the family of the circumstances under which an exception will be granted, as needed.

F. Transfer Waiting List: When a change in family composition requires a larger Voucher size and no funds are available, the family will be placed on a Transfer List.

Families will be selected from the Transfer List before families are selected from the applicant waiting list. This assures that families who are already on the program are in the appropriate sized units.

Families will be selected from this list when there is available funding, in the following sequence:

- 1. A participant family (whose family composition has been approved by the ACOH) who requires a change in Voucher size because they are living in a unit which is overcrowded according to Housing Quality Standards.**
- 2. A participant family (whose family composition has been approved by the ACOH) who requires a change in Voucher size under the Subsidy Standards, but not under Housing Quality Standards.**
- 3. All others who require a transfer as determined by the ACOH.**

5.4 UNIT SIZE SELECTED: [24 CFR 982.402(c) The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to consider:

A. Subsidy Limitation: The family unit size as determined for a family under the ACOH subsidy standard for a family assisted in the voucher program is based on the ACOH's adopted payment standards. The payment standard for a family shall be the *lower of*:

1. payment standard amount for the family unit size; or
2. payment standard amount for the unit size rented by the family.

B. Utility Allowance: The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.

C. Housing Quality Standards: In accordance with 24 CFR 982.401(d) and

982.402 (b) the standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

HQS GUIDELINES FOR UNIT SIZE SELECTED

Unit Size	Maximum Number in Household
0 Bedroom	1
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

Chapter 6

FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

[24 CFR Part 5, Subparts E and F; 24 CFR 982.153, 24 CFR 982.551]

6.1 INTRODUCTION: The ACOH will use the methods as set forth in this Administrative Plan to verify and determine family income at admission and at any annual re-examination. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under HUD Regulations.

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (hereinafter TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F [24 CFR 5.628], and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. Any ACOH policies in this Chapter address discretionary terms and standards and are intended to promote consistent application of the TTP factors.

6.2 INCOME AND ALLOWANCES: [24 CFR 5.609]

- A. Income:** Income includes all monetary amounts which are received on behalf of the family. For purposes of calculating the TTP, HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income which is not specifically excluded in the regulations is counted.
- B. Annual Income:** Annual income is defined as the total amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income that has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.
- C. Adjusted Income:** Adjusted Income is defined as the Annual income minus any HUD allowable expenses and deductions. HUD has five allowable deductions from Annual Income:
 - 1. Dependent Allowance:** \$480 for each dependent family member. This does not include the head of household or spouse, but does include minors and family members 18 years or older who are full-time students or who are disabled.
 - 2. Elderly/Disabled Allowance:** \$400 per family for families whose head or spouse is 62 or over or disabled.
 - 3. Allowable Medical Expenses:** Deducted for all family members of an eligible elderly/disabled family.

4. Child Care Expenses: Deducted for the care of children under 13 when child care is necessary to allow a family member to work, attend school, or actively seek employment.

5. Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or a family member to work.

6.3 DISALLOWANCE OF EARNED INCOME FROM RENT

DETERMINATIONS FOR PERSONS WITH DISABILITIES: [24 CFR 5.617; 24 CFR 982.201(b)(3)] Effective April 20, 2001, ACOH must take all necessary steps to ensure those disabled families eligible for the mandatory earned income disallowance receive the disallowance. Exclusion of income during participation in training programs under 24 CFR 5.609[c][8][v] is still applicable.

A. Annual Income for Disabled Families: The annual income for qualified disabled families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date on which the increase in earned income begins and continuing for a cumulative 12-month period.

After the disabled family receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

1. **When a disabled person qualifies for the earned income exclusion:** A disabled family qualified for the earned income exclusion is a disabled family that meets all of the following criteria:
 - a. The family is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and
 - b. The family's annual income increases as a result of employment of a disabled family member; and
 - c. This newly employed individual was previously unemployed for one or more years prior to employment; or
 - d. The family's annual income increases as a result of increased earnings by a disabled family member during participation in any economic self-sufficiency or other job training program; or
 - e. The family's disabled 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 TANF provided that the total amount over a six-month period is at least \$500.

2. HUD Definition of Previously Unemployed: The HUD definition includes a person with disabilities who has earned in the

previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

3. HUD Definition of Economic Self-Sufficiency Program: The HUD definition is any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Amounts to be excluded are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment.

4. Definition of the TANF Amount: The amount of TANF received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies and transportation assistance.

5. Amount Subject to Disallowance: The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

B. Initial Twelve-Month Exclusion: Beginning on the date a disabled member of a qualified family is first employed or the family first has an increase in annual income attributable to employment of a disabled person and continuing for a cumulative 12 month period, the ACOH will exclude from annual income this increased income .

C. Second Twelve-Month Exclusion and Phase-In: During the second cumulative 12-month period after the expiration of the initial cumulative 12-month period referred to above, the ACOH must exclude from annual income of a qualified family 50 percent of any increase in income over the income of that disabled family member prior to the beginning of such employment.

D. Maximum Four Year Disallowance: The earned income disallowance is limited to a lifetime 48-month period for each disabled family member. For each disabled family member, the disallowance only applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of the phase-in exclusion during the 48-month period starting from the date of the initial exclusion.

If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months of each disallowance (the initial 12-month full exclusion and the second 12-month phase-in exclusion).

No earned income disallowance will be applied after the 48-month period following the initial date the exclusion was applied.

E. Applicability to Child Care and Disability Assistance Expense

Deductions: The amount deducted for child care and disability assistance expenses necessary to permit employment shall not exceed the amount of employment income that is included in annual income.

F. Tracking the Earned Income Exclusion: The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

Such documentation will include:

1. **Date the increase in earned income was reported by the family**
2. **Name of the family member whose earned income increased**
3. **Reason for the increase in earned income**
4. **Amount of the increase in earned income (amount to be excluded)**
5. **Date the increase in income is first excluded from annual income**
6. **Date(s) earned income ended and resumed during the initial cumulative 12-month * period of exclusion (if any)**
7. **Date the family member has received a total of 12 months of the initial exclusion**
8. **Date the 12-month phase-in period began**
9. **Date(s) earned income ended and resumed during the second cumulative 12-month period of exclusion (if any)**
10. **Date the family member has received a total of 12 months of the phase-in exclusion**
11. **Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)**

The ACOH will maintain a tracking system to ensure correct application of the earned income disallowance. ACOH may in its discretion conduct interim re-examinations for income increased.

G. Inapplicability to Admission: The earned income disallowance is only applied to determine the annual income of disabled families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

6.4 MINIMUM RENT: [24 CFR 5.630]

A. Minimum Rent: "Minimum rent" is fifty dollars (\$50). Minimum rent refers to the Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

B. Hardship Exception to Minimum Rent: The ACOH recognizes that in some circumstances even the minimum rent may create a financial hardship for families. In evaluating minimum rent, the ACOH will review all relevant circumstances brought to the ACOH's attention regarding financial hardship. The ACOH has procedures and policies on the financial hardship exception. These policies are governed by the Quality Housing and Work Responsibility Act of 1998 [42 USCS 1437a]. HUD has defined circumstances under which a hardship may be claimed under 24 CFR 5.630.

C. Criteria for Hardship Exception: In order for a family to qualify for a hardship exception the family's circumstances must fall under one of the following HUD hardship criteria:

1. The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance. This exception includes a family with a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act, and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996 [42 USCS 1437a].

2. The family would be evicted as a result of the imposition of the minimum rent requirement;

3. The income of the family has decreased because of changed circumstances, including loss of employment, death in the family, or other circumstances as determined by the ACOH or HUD.

D. ACOH Notification to Families of Right to Hardship Exception: The ACOH will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. The ACOH notification will advise families that hardship exception determinations are subject to ACOH review and hearing procedures. The ACOH will review all family requests for exception from the minimum rent due to financial hardships.

Subject to minimum rent means the minimum rent was the greatest figure in the calculation of the greatest of 30% of monthly adjusted income, 10% of monthly income, minimum rent or welfare rent.

Requests for minimum rent exception will be accepted by the ACOH from the family in writing.

The ACOH will request documentation as proof of financial hardship.

E. Suspension of Minimum Rent: The ACOH will promptly suspend the minimum rent exception for all families who request it, effective the first of the following month. The minimum rent will be suspended until the ACOH promptly determines whether the hardship is:

1. Covered by statute as a qualifying financial hardship; and
2. Temporary or long term.

Suspension means that the ACOH must not use the minimum rent calculation until the ACOH has made a decision on hardship status. During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly.

If the ACOH determines that the requested basis for the hardship is not covered by statute, the ACOH will impose a minimum rent including payment for minimum rent from the time of suspension.

F. Temporary Hardship: If the ACOH determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

The ACOH will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. (See "Owner and Family Debts to the ACOH" chapter for Repayment agreement policy).

G. Long-Term Duration Hardships: [24 CFR 5. 630 (b) (2) (iii) (B)] If the ACOH determines that there is a qualifying long-term financial hardship, the ACOH must exempt the family from the minimum rent requirements for as long as the hardship continues. The exemption from minimum rent shall apply from the first day of the month following the family's request for exemption.

H. Retroactive Determination: The ACOH will reimburse the family for any minimum rent charges which took effect after October 21, 1998 that qualified for one of the mandatory exceptions. If the family is owed a retroactive payment, the ACOH will offer a credit towards their future rent contribution payments.

6.5 DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT: [24 CFR 982.54(d)(10), 24 CFR 982.551]

A. General Rule: The ACOH must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the ACOF must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

Temporarily absent is defined as away from the unit for more than seven days, but less than 180 days.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances are counted as income. ACOH will make an exception for hazardous duty pay where an individual is exposed to hostile fire and for any other exceptions to military pay HUD may define.

It is the responsibility of the head of household to report changes in family composition.

B. Permanent Absence of Any Member: Any member of the household will be considered permanently absent if s/he is away from the unit for 180 days except as otherwise provided in this Chapter.

C. Absence Due to Medical Reasons: If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the ACOH will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the ACOH's "Absence of Entire Family" policy.

D. Absence Due to Full-time Student Status: Full time students who attend school away from the home and live with the family during school recesses will be considered temporarily absent from the household.

E. Absence Due to Incarceration: If the sole member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 180 days.

F. Absence of Children due to Placement in Foster Care: If the family includes a child or children temporarily absent from the home due to placement in foster care, the ACOH will determine from the appropriate agency when the child/ren will be returned to the home.

If the time period is to be greater than 180 days from the date of removal of the child/ren, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the ACOH's subsidy standards.

G. Absence of Entire Family: "Absence" means that no family member is residing in the unit. In order to determine if the family is absent from the unit, the ACOH may write letters to the family in the unit, telephone the family at the unit, interview neighbors, verify if utilities are in service or check with the post office.

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit.

1. In cases where the family has moved out of the unit, the ACOH will terminate assistance in accordance with appropriate termination procedures contained in this Plan. Families are required both to notify the ACOH before they move out of a unit and to give the ACOH information about any family absence from the unit.

2. Families must notify the ACOH no less than 15 days after leaving the unit if they are going to be absent from the unit for more than 30 consecutive days.

3. If the entire family is absent from the assisted unit for more than 60 consecutive days, the unit will be considered vacated and the assistance will be terminated.

If it is determined that the family is absent from the unit, the ACOH will contact the landlord to confirm the absence and continue assistance payments through the end of the month following discovery of family absence and notification of the landlord.

4. HUD regulations require the ACOH to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

5. Absence means that no family member is residing in the unit.

6. In order to determine if the family is absent from the unit, the ACOH

may

a. Write letters to the family at the unit

b. Telephone the family at the unit

c. Verify if utilities are in service

d. Contact landlord.

7. A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar days limit. If the absence which resulted in termination of assistance was due to a person's disability, and the ACOH can verify that the person was unable to notify the ACOH in accordance with the family's responsibilities, and if funding is available, the ACOH may reinstate the family as an accommodation if requested by the family within 180 days.

H. Caretaker for Children: If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the ACOH will treat that adult as a visitor for the first 60 days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the ACOH will review the status at 30-day intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, the ACOH will secure verification from social services staff or the attorney as to the status.

If custody is awarded for a limited time or on a temporary basis, in excess of the above limits, the ACOH will state in writing that the transfer of the

Voucher is for that limited time or as long as they have custody of the children. The ACOH will use discretion as deemed appropriate in determining any further assignment of the Voucher on behalf of the children.

When the ACOH approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The ACOH will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 30 days, the person will be considered permanently absent.

I. Visitors: Any adult not included on the HUD 50058 who has been in the unit more than 15 consecutive days without ACOH approval, or a total of 30 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered in determining that the visitor is a member of the household.

Statements from the landlord and other information will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests with the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the ACOH will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 60 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 150 days per year, the minor will be considered to be an eligible visitor and not a family member.

J. Reporting Additions to Owner and ACOH: Reporting changes in household composition to the ACOH is both a HUD and an ACOH requirement.

The family obligations require the family to request ACOH approval to add any other family member as an occupant of the unit and to inform the ACOH of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations.

If the family does not obtain prior written approval from the ACOH, any person the family has permitted to move in may be considered an unauthorized household member.

In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the ACOH in writing within 30 days of the maximum allowable time.

An interim re-examination will be conducted for any additions to the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court awarded custody.

K. Reporting Absences to the ACOH: Reporting changes in household composition is both a HUD and an ACOH requirement.

If a family member leaves the household, the family must report this change to the ACOH, in writing, within 30 days of the change and certify that the member is temporarily absent or permanently absent.

The ACOH will conduct an interim evaluation for changes which affect the Total Tenant Payment in accordance with the interim policy.

6.6 AVERAGING INCOME: When annual income cannot be anticipated for a full twelve months, the ACOH may:

- A. Annualize current income and conduct an interim re-examination if income changes;
- B. Use bonuses and overtime received the previous year if there are bonuses or overtime which the employer cannot anticipate for the next twelve months;
OR
- C. Use, by averaging, an estimate to reduce the number of interim adjustments for those families whose income fluctuates from month to month.

The method used depends on the regularity, source and type of income.

6.7 MINIMUM INCOME: There is no minimum income requirement. Families who report zero income are required to complete a written certification every three months and undergo an interim re-certification every three months.

Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

If the family's expenses exceed their known income, the ACOH may make inquiry of the head of household as to the nature of the family's accessible resources.

6.8 INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME: [24 CFR 982.54(d)(10)]

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the ACOH will calculate the income by using the following methodology and use the income figure which would result in a lower payment

by the family:

A. Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member; OR

B. Include the income of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.

6.9 REGULAR CONTRIBUTIONS AND GIFTS: [24 CFR 5.609] Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

Any contribution or gift received every month or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$500 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. See "Verification Procedures" chapter for further definition.

If the family's expenses exceed its known income, the ACOH may inquire of the family regarding contributions and gifts. For gifts to be excluded, families must show that the gift is temporary, non-recurring, or sporadic in nature.

6.10 ALIMONY / CHILD SUPPORT and OTHER ADDITIONS TO ASSETS: [24 CFR 5.609] Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received is less than the amount awarded by the court, the ACOH will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and the family provides documentation of another form of payment.

A. Lump-Sum Receipts: [24 CFR 5.609] Lump-sum payments and additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

In order to determine the amount of retroactive rent that the family owes as a result of the lump sum receipt, the ACOH calculate prospectively if the family reported within 30 days and retroactively to date of receipt if the receipt was not reported within that time frame.

1. Prospective Calculation Methodology: If the payment is reported on a timely basis, the calculation will be done prospectively

and will result in an interim adjustment calculated as follows:

- a. The entire lump-sum payment will be added to the annual income at the time of the interim.
- b. If amortizing the payment over one year will cause the family to pay more than 40% of the family's adjusted income (before the lump sum was added) for TTP, the ACOH and family may enter into a Payment Agreement, with the approval of the Chief of Housing.

2. Retroactive Calculation Methodology: The ACOH will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the ACOH.

At the ACOH's option, the ACOH may enter into a Payment Agreement with the family.

The amount owed by the family is a collectible debt even if the family becomes unassisted.

3. Attorney Fees: The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

6.11 CONTRIBUTIONS TO RETIREMENT FUNDS – AND OTHER ASSETS:

[24 CFR 5.603(d)] Contributions to company retirement/pension funds are handled as follows:

- A. While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.
- B. After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

6.12 ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE: [24

CFR 5.603(b)(3)] The ACOH must count assets disposed of for less than fair market value during the two years preceding certification or re-examination. The ACOH will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

6.13 CHILD CARE EXPENSES: [24 CFR 5.603] Child care expenses for children under 13 may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment. In the case of a child attending private school, only after-hours care can be counted as child care expenses. Child care expenses cannot be allowed as a deduction if there is an adult household member capable and appropriate for caring for the child who can provide the child care. The maximum child care expense allowed must be less than the amount earned by the person enabled to work.

The ACOH will use available market rates to determine guidelines for hourly rates. If the hourly rates actually paid exceeds the guideline, ACOH may calculate the allowance using the guideline.

6.14 MEDICAL EXPENSES: [24 CFR 5.611] When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide. Nonprescription medicines must be doctor-recommended in order to be considered a medical expense. For families who qualify, nonprescription medicines will be counted toward medical expenses if the family furnishes legible receipts. Accupressure, accupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses.

6.15 PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES: [24 CFR 5.520]

A. Applicability: Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

B. Prorated Assistance Calculation: Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

6.16 INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS:

A. **Rules on Common Welfare Changes:** The ACOH will not reduce the rental contribution for families whose welfare assistance is reduced due to the following: (1) fraud by a family member in connection with the welfare program; (2) failure to participate in an economic self-sufficiency program; or (3) noncompliance with a work activities requirement

However, the ACOH will reduce the rental contribution if the welfare assistance reduction is a result of any of the following:

1. the expiration of a lifetime time limit on receiving benefits;
2. a situation where a family member has not complied with other welfare agency requirements not listed above; or
3. a situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment.

B. Imputed Income: Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution.

Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed.

When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

C. Verification Before Denying a Request to Reduce Rent: The ACOH will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

The welfare agency, at the request of the ACOH, will inform the ACOH of (1) the amount and term of specified welfare benefit reduction for the family; (2) the reason for the reduction; and (3) subsequent changes in term or amount of reduction.

D. Cooperation Agreements: The ACOH has an unwritten cooperation agreement in place with the local welfare agency which assists the ACOH in obtaining the necessary information regarding welfare sanctions. The ACOH has taken a proactive approach to culminating an effective working relationship between the ACOH and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 participants. The ACOH and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 participants.

6.17 UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT

PAYMENTS: [24 CFR 982.153, 24 CFR 982.517] The same Utility Allowance Schedule is used for all tenant-based programs.

A. Requirements: The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The ACOH's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards. The ACOH may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The ACOH must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, water heating, water, sewer, trash collection; other electric, refrigerator (for tenant supplied refrigerator), range (cost of tenant-supplied range); and other specified services.

An allowance for tenant-paid air conditioning will be provided in those cases where the majority of housing units in the market have central air

conditioning or are wired for tenant installed air conditioners [24 CFR 982.517]. Where families provide their own range and refrigerator, the ACOH will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns these appliances. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over a 12-month period.

The approved utility allowance schedule is given to families along with their Voucher. The utility allowance is based on the actual unit size selected.

B. Reviews of Allowance: The ACOH will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

C. Utility Reimbursement: Where the calculation on the HUD 50058 results in a utility reimbursement payment due to the family [24 CFR 982.514(b)], the ACOH will provide a utility reimbursement payment for the family each month. The check will be made out directly to the tenant.

Chapter 7

VERIFICATION PROCEDURES

[24 CFR Part 5, Subparts B, D, E and F; 24 CFR 982.158]

7.1 INTRODUCTION: HUD does not have specific standards for proper verification. This chapter includes industry practices demonstrating acceptable verification and ACOH policy preferences.

HUD regulations require that all eligibility factors and Total Tenant Payment/Family Share be verified by the local Housing Agency. ACOH staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible.

Applicants and program participants must provide true and complete information to the ACOH. The ACOH's verification requirements are designed to maintain program integrity. This chapter explains ACOH's verification procedures for: (1) preferences, (2) income, (3) assets, (4) allowable deductions, (5) family status, and (6) changes in family composition. The ACOH will obtain proper authorization from the family before requesting information from independent sources.

7.2 METHODS OF VERIFICATION AND TIME ALLOWED: [24 CFR 982.516]
The ACOH will verify information through four methods acceptable to HUD. Preference shall be given to the types of verification based on the following order:

- A. Third-Party Written**
- B. Third-Party Oral**
- C. Review of Documents**
- D. Certification/Self-Declaration**

The ACOH will allow 15 business days for return of third-party verifications and 7 business days to obtain other types of verifications before going to the next method. The ACOH will document the file as to why third party written verification was not used.

For applicants, verifications may not be more than 60 calendar days old at the time of Voucher issuance. For participants, verifications are valid for 60 calendar days from date of receipt.

A. Third-Party Written Verification: Third-party verification obtains information directly from a source. Third-party written verification forms will be sent and returned via first class mail, fax and/or email. Participating families will be required to sign an authorization for release of information.

Electronic verifications received directly from the source **are** considered third party written verifications.

The ACOH will accept verifications in the form of computerized printouts delivered by the family from the following agencies:

- 1. Social Security Administration**
- 2. Veterans Administration**

3. Welfare Assistance
4. Unemployment Compensation Board
5. City or County Courts
6. Division of Child Support Enforcement

B. Third-Party Oral Verification: Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a Contact Certification Form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third party verification is provided by telephone, the ACOH must originate the call.

C. Review of Documents: In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within the allotted time discussed above in Section 7.2, the ACOH will place a note in the file and utilize documents provided by the family as the primary source. All documents provided must contain complete information.

The ACOH will accept documents from the family provided that the document is such that tampering would be easily noted; for example:

1. Printed wage stubs
2. Computer print-outs from the employer
3. Signed letters (provided that the information is confirmed by phone)
4. Other documents noted in this Chapter as acceptable verification

The ACOH will accept faxed documents.

The ACOH will accept photocopies. If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the ACOH will utilize third party verification.

The ACOH will not delay the processing of an application beyond 30 business days because a third party does not return the verification in a timely manner.

D. Self-Certification/Self-Declaration: When verification cannot be made by third-party verification or document review, families will be required to submit a self-certification. Self-certification means a notarized statement.

7.3 RELEASE OF INFORMATION: [24 CFR 5.230] Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act form.

In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886. This form is called the Authorization for Release of Information/Privacy Act Notice.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance. It is a family obligation to supply true

and accurate information and to sign all consent forms requested by the ACOH or HUD. A failure to do so will result in a denial of service.

7.4 COMPUTER MATCHING: The 1988 McKinney Act authorized State wage record keepers to release to both HUD and local agencies information pertaining to wages and unemployment compensation.

A. Independent Verification of Income: ACOH conducts a computer matching initiative (EIV) to independently verify resident income. The Enterprise Income Verification (EIV) system is a web-based computer system that contains employment and income information of individuals who participate in HUD rental assistance programs. EIV information will be used by the ACOH to:

- Confirm participants name, date of birth, and Social Security number with SSA.
- Verify reported income sources and amounts
- Confirm participation in only one HUD rental assistance program
- Confirm any negative status if a participant moved out of a subsidized unit in the past under the Public Housing or Section 8 program.
- Follow up with assisted family or next listed emergency contact regarding deceased household members.

ACOH can access income information and compare it to information submitted by the program participant. If the ACOH receives information from EIV data indicating a discrepancy in the income or household composition reported by the family, ACOH will notify the family of the discrepancy. The family is required to disclose this information to ACOH. See 24 CFR 5.240..

B. Response to Income Discrepancy Letters: When a family is notified by ACOH of a discrepancy a family will be given 30 days to furnish any letter or other verification concerning the discrepancy.

C. New Verification Required: When the family provides the required information, the ACOH will:

1. verify the accuracy of the income information received from the family;
2. review the ACOH's interim recertification policy;
3. identify unreported income;
4. identify underpayment or overpayment of rent or subsidy;
5. charge retroactive rent as appropriate;
6. review proper application of all disregards; and
 7. change the amount of rent, terminate assistance or provide a reimbursement, as appropriate.

If the amount of rent owed to the ACOH exceeds \$5000, the ACOH will seek to terminate assistance.

D. Failure of Tenant to Respond: If tenant fails to respond, the ACOH will:

1. Set up a meeting with the family to complete IRS Forms 4506 and 8821.
2. If the family fails to meet with ACOH or will not sign the IRS forms, the ACOH will notify the family in writing that termination proceedings will begin one week if the tenant fails to meet with the ACOH and/or sign the forms.

E. Tenant Disagreement with Contents of Income Discrepancy Letter: If the tenant disagrees with the information contained in the EIV data, the ACOH will ask the tenant to provide documented proof that the EIV data is incorrect.

If the tenant does not provide documented proof, the ACOH will obtain proof to verify the EIV data using third party verification.

7.5 ITEMS TO BE VERIFIED: [24 CFR 982.516] ACOH staff administering the Section 8 program must verify the following items:

- A. **Income:** All income not specifically excluded by the regulations.
- B. **Student Status:** Full-time student status including High School students who are 18 or over.
- C. **Current Assets:** Current assets including assets disposed of for less than fair market value in the preceding two years.
- D. **Child Care Expense:** Child care expense that allows an adult family member to be employed or to further his/her education.
- E. **Medical Expenses:** Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
- F. **Disability Expenses:** Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an *adult* family member to be employed.
- G. **Disability Status:** Disability for determination of preferences, allowances or deductions.
- H. **Citizenship:** U.S. citizenship/eligible immigrant status
- I. **Social Security Numbers:** Social security numbers for all family members over 6 years of age or older who have been issued a social security number.
- J. **Preferences Status:** "Preference" status
- K. **Marital Status:** Marital status when needed for head or spouse definition.
- L. **Reductions in Benefits:** Verification of Reduction in Benefits for

Noncompliance:

The ACOH will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance

before denying the family's request for rent reduction.

7.6 VERIFICATION OF INCOME: [24 CFR 982.516] This section defines the methods the ACOH will use to verify types of income.

A. Employment Income: Verification forms request the employer to specify the dates of employment; amount and frequency of pay; date of the last pay increase; likelihood of change of employment status and effective date of any known salary increase during the next 12 months. ACOH also requires the following: year to date earnings and estimated income from overtime, tips, bonus pay expected during the next 12 months.

Acceptable methods of verification include, in order of preference:

1. **Employment verification form completed by the employer.**
2. **Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.**
3. **W-2 forms plus income tax return forms.**
4. **Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.**

In cases where there are questions about the validity of information provided by the family, the ACOH may require the most recent federal income tax statements or require the family to sign IRS Form 4506, Request for Copy of Transcript of Tax Form, for release of information from the IRS for further verification of income.

B. Social Security, Pensions, Supplementary Security Income (SSI), Disability Income: Acceptable methods of verification include, in this order:

1. **Benefit verification form completed by agency providing the benefits.**
2. **Award or benefit notification letters prepared and signed by the providing agency.**
3. **Computer report electronically obtained or in hard copy.**

C. Unemployment Compensation: Acceptable methods of verification include, in this order:

1. **Verification form completed by the unemployment compensation agency.**
2. **Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.**
3. **Payment stubs.**

D. Welfare Payments or General Assistance: Acceptable methods of verification include, in this order:

1. **ACOH verification form completed by payment provider.**
2. **Written statement from payment provider indicating the amount**

of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.

3. Computer-generated Notice of Action.

E. Alimony or Child Support Payments: Acceptable methods of verification include, in this order:

- 1. Copy of a separation agreement, settlement agreement or divorce decree stating the amount and type of support and the payment schedules.**
- 2. A notarized letter from the person paying the support.**
- 3. Copy of latest check and/or payment stubs from Court Trustee. ACOH must record the date, amount, and number of the check.**
- 4. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.**
- 5. If payments are irregular, the family must provide:**
 - a. A copy of the separation agreement, settlement agreement or a divorce decree stating the amount and type of support and payment schedules, or**
 - b. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement, or**
 - c. A notarized affidavit from the family indicating the amount(s) received, or**
 - d. A welfare notice of action showing amounts received by the welfare agency for child support.**

F. Net Income from a Business: In order to verify the net income from a business, the ACOH will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification include:

- 1. IRS Form 1040, including Schedule C (Small Business), Schedule E (Rental Property Income), Schedule F (Farm Income).**

If accelerated depreciation was used on the tax return or financial statement, CRHA shall use the accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- 2. Audited or unaudited financial statement(s) of the business.**
- 3. Family's self-certification as to net income realized from the business during the previous years.**

G. Child Care Business: If an applicant/participant is operating a licensed day care business, income will be verified as with any other business. If the applicant/participant is operating a “cash and carry” operation (which may or

may not be licensed), the ACOH will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child/ren are being cared for, phone number, number of hours child is being cared for, method of payment (cash/check), amount paid and signature of person. If childcare services are terminated, a third-party verification will be sent to the parent(s) whose child was cared for.

If the family has filed a tax return, the family may be required to provide it.

H. Recurring Gifts: The family must furnish a self-certification, which contains the following information:

- 1. The person who provides the gifts**
- 2. The value of the gifts**
- 3. The regularity (dates) of the gifts**
- 4. The purpose of the gifts**

I. Zero Income Status: Families claiming to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

Families who report zero income are required to complete a written certification every 3 months and undergo an interim re-certification every 3 months.

Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities and transportation, etc.

The ACOH may request information from the Virginia Employment Commission.

The ACOH will run a credit report if information is received that indicates the family has an unreported income source.

J. Full-time Student Status: Only the first \$480 of the earned income of full time students, other than head, co-head, or spouse, will be counted towards family income.

Financial aid, scholarships and grants received by full time students is not counted towards family income.

Verification of full time student status includes:

Written verification from the registrar's office or other school official.

School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

7.8 INCOME FROM ASSETS: [24 CFR 982.516]

A. Savings Account Interest Income and Dividends: Acceptable methods of verification include, in this order:

- 1. Account statements, passbooks, certificates of deposit, or ACOH verification forms completed by the financial institution.**
- 2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.**
- 3. IRS Form 1099 from the financial institution, provided that the ACOH must adjust the information to project earnings expected for the next 12 months.**

B. Interest Income from Mortgages or Similar Arrangements:

Acceptable methods of verification include, in this order:

- 1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)**
- 2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.**

C. Net Rental Income from Property Owned by Family: Acceptable methods of verification include, in this order:

- 1. IRS Form 1040 with Schedule E (Rental Income).**
- 2. Copies of latest rent receipts, leases, or other documentation of rent amounts.**
- 3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.**

7.9 VERIFICATION OF ASSETS:

A. Family Assets: The ACOH will require information necessary to determine the current cash value of the family's assets, (the net amount the family would receive if the asset were converted to cash).

Acceptable verification may include any of the following:

- 1. Verification forms, letters, or documents from a financial institution or broker.**
- 2. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.**
- 3. Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.**
- 4. Real estate tax statements if the approximate current market value can be deduced from assessment.**

5. **Financial statements for business assets.**
6. **Copies of closing documents showing the selling price and the distribution of the sales proceeds.**
7. **Appraisals of personal property held as an investment.**
8. **Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.**

B. Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification:

For all Certifications and Re-certifications, the ACOH will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or re-certification.

If the family certifies that they have disposed of assets for less than fair market value, certification is required that shows:

1. **all assets disposed of for less than FMV**
2. **the date they were disposed of**
3. **the amount the family received**
4. **the market value of the assets at the time of disposition.**

Third party verification will be obtained wherever possible.

7.10 VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME: [24 CFR 982.516]

A. Child Care Expenses: Written verification from the childcare provider is required. If the child care provider is an individual, s/he must provide a statement with the cost charged for his/her services.

Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

B. Medical Expenses: Families claiming medical expenses must submit a certification as to any anticipated reimbursement, past, present or future, by an outside source. All claims will be verified by one or more of the methods listed below:

1. **Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of:**
 - (a) **the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and**
 - (b) **extent to which those expenses will be reimbursed by insurance or a government agency.**

- 2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.**
- 3. Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.**
- 4. Attendant care:**
 - a. A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.**
 - b. Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.**
 - c. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.**
 - d. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.**
 - e. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. ACOH may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.**
 - f. The ACOH will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.**

C. Assistance to Persons with Disabilities:

1. In All Cases: ACOH requires written certification from a reliable, knowledgeable professional that the person with a disability needs the services of an attendant and/or the use of auxiliary apparatus to be employed or to allow another family member/caretaker to be employed.

ACOH requires Family's certification as to whether they receive reimbursement for any disability assistance and the amount of any reimbursement received.

2. Attendant Care: ACOH requires the Attendant's written certification of amounts received from the family, frequency of receipt, and hours of care provided. Or

ACOH requires certification by the family and the attendant and copies of canceled checks that the family used to make payments.

3. Auxiliary Apparatus: ACOH requires receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.

In cases where a disabled individual is employed, ACOH requires a statement from the employer that the auxiliary apparatus is necessary for employment.

7.11 VERIFYING NON-FINANCIAL FACTORS:

A. Verification of Legal Identity: In order to prevent program abuse, the ACOH will require applicants to furnish verification of legal identity for all family members.

The following documents will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one document may be required.

- 1. Certificate of Birth, naturalization papers**
- 2. Church issued baptismal certificate**
- 3. Current, valid Driver's license**
- 4. U.S. military discharge (DD 214)**
- 5. U.S. passport**
- 6. Voter's registration**
- 7. Company Identification Card**
- 8. DMV Identification Card**
- 9. Hospital records**
- 10. INS documentation**

Documents considered acceptable for the verification of legal identity for minors may include one or more of the following:

- 1. Certificate of Birth**
- 2. Adoption papers**
- 3. Custody agreement**
- 4. Health & Human Services ID**
- 5. School records**
- 6. Hospital records**

B. Verification of Marital Status:

Participants can verify marital/divorce status by providing a marriage certificate or a certified copy of a divorce decree, signed by a Court Officer, respectively.

Verification of a legal separation shall include a copy of court-ordered maintenance agreement or other records.

C. Familial Relationships: Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

D. Verification of Permanent Absence of Family Member: If an adult member of the household is reported as permanently absent by the family, the ACOH will consider any of the following as verification:

1. **Husband or wife institutes divorce action.**
2. **Husband or wife institutes legal separation.**
3. **Order of protection/restraining order obtained by one family member against another.**
4. **Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.**
5. **Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.**
6. **If the adult family member is incarcerated, a document from the Court or correctional facility stating how long they will be incarcerated.**
7. **If no other proof can be provided, the ACOH will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.**

E. Verification of Change in Family Composition: The ACOH may verify changes in family composition (either reported or unreported) through letters, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

F. Verification of Disability:

1. Participants may verify their disability by providing proof that they receive SSI or SSA disability payments under the Social Security Act or the Developmental Disabilities Assistance and Bill of Rights Act;
OR
2. Participants may verify their disability by providing documentation from an appropriate physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

G. Verification of Citizenship/Eligible Immigrant Status: [24 CFR 5.508, 24 CFR 5.510, 24 CFR 5.512, 24 CFR 5.514] To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who do not fit these categories may elect not to contend their status. Eligible immigrants must be in one of the categories specified by federal regulations and must have their status verified by Immigration and Naturalization Service (INS). Family members must declare their status. Assistance cannot be

delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while a ACOH hearing is pending. ACOH shall obtain and review documents of immigration status and retain a photocopy of these documents in the file.

1. Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The ACOH will require citizens to provide documentation of citizenship. Acceptable documentation will include at least one of the following original documents:

- a. **US birth certificate**
- b. **United States passport**
- c. **Other appropriate documentation as determined by ACOH**
- d. **Social security card**
- e. **Resident alien/registration card**

2. Eligible Immigrants who were Participants and 62 or over on Sept. 30, 1996, are required to sign a declaration of eligible immigration status and provide proof of age.

3. Non-citizens with eligible immigration status must sign a declaration of status, a verification consent form and provide their original immigration documents which will be copied both front and back and returned to the family. The ACOH verifies the status through the INS SAVE system. If this primary verification fails to verify status, the ACOH must request within ten days that the INS conduct a manual search.

4. Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

5. Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa and must be listed on the statement of ineligible members. Their status will not be verified and they do not sign a declaration.

6. Failure to Provide. If an applicant or participant family member fails to sign required declarations and consent forms or fails to provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

H. Time of Verification: For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the time of initial application. The ACOH will not provide assistance to any family prior to the affirmative establishment and verification of their eligibility of at least one member of the family. Once verification has been completed for any covered program, it need not be repeated except where port-in families do not have the documentation from the initial Authority. ACOH must then conduct the determination.

1. Extensions of Time to Provide Documents

The ACOH will grant an extension of 30 days for families to submit evidence of eligible immigrant status.

2. Acceptable Documents of Eligible Immigration

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- a. Resident Alien Card (I-551)**
- b. Arrival-Departure Record (I-94)**
- c. Employment Authorization Card (I-688B)**
- d. Temporary Resident Card (I-688)**
- e. Alien Registration/Receipt Card (I-151)**

An INS replacement receipt for any of the above documents shall be considered sufficient to show the individual's entitlement has been verified.

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If the ACOH determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated, unless the ineligible individual has already been considered in prorating the family's assistance.

I. Verification of Social Security Numbers: [24 CFR 5.216] Social security numbers must be provided for members age six and over if they have been issued a number. Verification of social security numbers will be done through a social security card issued by the Social Security Administration. If a family member cannot produce a social security card, only the documents listed below showing his or her social security number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the social security card is/are complete and accurate:

- 1. A driver's license**
- 2. Identification card issued by a Federal, State or local agency**
- 3. Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)**
- 4. An identification card issued by an employer or trade union**
- 5. An identification card issued by a medical insurance company**
- 6. Earnings statements or payroll stubs**
- 7. Bank Statements**
- 8. IRS Form 1099**
- 9. Benefit award letters from government agencies**

10. **Retirement benefit letter**
11. **Life insurance policies**
12. **Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records**
13. **Verification of benefits or social security number from Social Security Administration**

New family members ages six and older will be required to produce their social security card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the ACOH.

If an applicant or participant is able to disclose the social security number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the ACOH. The applicant/participant or family member will have an additional 30 days to provide proof of the social security number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the ACOH may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

J. Medical Need for Larger Unit: A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

7.12 VERIFICATION OF WAITING LIST PREFERENCES: [24 CFR 982.207]

A. Local Preferences:

Residency Preference: This preference applies to any and all families who live, work or have been hired to work in the jurisdiction of the ACOH. Families who are unable to work due to age or disability automatically qualify for this preference.

* In order to verify that an applicant is a resident, the ACOH will require verification from one of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, statement from the household with whom the family is residing.

* For families who have been hired to work in the jurisdiction of the ACOH, a statement from the employer will be required.

Victims of Domestic Violence: Families who claim they

are being or have been displaced due to domestic violence may qualify for a preference with the following verification:

ACOH will require written verification from police, social service agency, court, clergyperson, physician, and/or public or private facility giving shelter and/or counseling to victims that the family has sought services and assistance for prior victimization by a family or household member within the last six months. In every case, ACOH will work with the family to find appropriate documentation on a case by case basis.

Verification must be obtained (from a landlord or other source) that the abuser still resides at the unit.

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 24 CFR 982.302]

8.1 INTRODUCTION: The ACOH strives to ensure that families selected to participate in the voucher program are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve the maximum benefits available while complying with program requirements. When eligibility has been determined, the ACOH will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, ACOH procedures, and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This chapter describes how briefings will be conducted, the information that will be provided to families, and the policies on handling changes in family composition.

8.2 ISSUANCE OF VOUCHERS: [24 CFR 982.204(d), 982.54(d)(2)] When funding is available, the ACOH will issue vouchers to applicants whose eligibility has been determined. The number of vouchers issued must guarantee that the ACOH stays as close as possible to 100 percent lease-up.

The ACOH performs a monthly calculation electronically to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent the ACOH can over-issue vouchers (issue more vouchers than the budget allows) to achieve full lease-up.

The ACOH may over-issue vouchers only to the extent necessary to meet leasing goals. All vouchers that are over-issued must be honored. If the ACOH finds it is over-leased, it must adjust future issuance of vouchers in order not to exceed the ACC budget limitations over the fiscal year.

The ACOH must select participants from the waiting list.

8.3 BRIEFING TYPES AND REQUIRED ATTENDANCE: [24 CFR 982.301]

A. Initial Applicant Briefing: A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups. Families who attend group briefings and still have the need for individual assistance will be referred to the Section 8 Housing Specialist.

Briefings will be conducted in English. Interpreter services will be provided as necessary. The purpose of the briefing is to explain how the program works and the documents in the voucher holder's packet. Families should leave these sessions fully informed about the program. This will enable participants to utilize the program to their advantage, and it will prepare them

to discuss the program requirements with potential owners and property managers.

The Authority will use the briefing to explain the documents included in the voucher information packet, and to discuss relevant issues including, but not limited to the following:

1. A general description of the HCV Section 8 Program.
2. Family and owner responsibilities.
3. Where a household may lease a unit, including renting a unit outside the ACOH jurisdiction.
4. Explanation of portability.
5. Advantages of moving to a census tract with low poverty.
6. Special considerations concerning families that may have special needs.
7. Exercising choice in residency.
8. Choosing a unit carefully and only after due consideration.
9. Tenant obligations associated with Welfare to Work Programs.
10. The benefits and challenges of moving to an opportunity neighborhood.
11. Tenant Readiness.
12. Maintenance of a “Search” log.

The ACOH will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two scheduled briefings, without prior notification and approval of the ACOH, may be denied admission based on failure to supply information needed for certification. The ACOH will conduct individual briefings for families with disabilities at their home, upon request by the family and if required as a reasonable accommodation.

B. Briefing Packet Information When Family Is Selected: [24 CFR 982.301] The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements. The ACOH also includes other information and/or materials that are not required by HUD.

1. **Information Provided in Lease Briefing:** The family is provided with the following information and materials:

- a. The term of the voucher, and the ACOH policy for requesting extensions or suspensions of the voucher (referred to as tolling). When a Request for Tenancy Approval is received, the ACOH will deduct the number of days required to process the request from the term of the voucher. The definition of tolling time is the difference in time from which a tenant submits the Request for Tenancy Approval (RFTA) and the time in which we determine eligibility of the unit. Once the tenant submits the RFTA to ACOH the sixty (60) day voucher time stops (temporarily) until eligibility is determined. If the unit fails eligibility, another RFTA is then given to the tenant to

continue the search for an eligible unit and the balance of the sixty (60) day time begins. And this process continues until the sixty (60) day time on voucher has expired.

b. A description of the method used to calculate the housing assistance payment for a family, including how the ACOH determines the payment standard for a family; how the ACOH determines total tenant payment for a family and information on the payment standard and utility allowance schedule; how the ACOH determines the maximum allowable rent for an assisted unit, including the rent reasonableness standard.

c. Where the family may lease a unit.

d. Owner responsibilities;

e. For a family that qualifies to lease a unit outside the ACOH jurisdiction under portability procedures, the information must include an explanation of how portability works.

f. The HUD required tenancy addendum, which must be included in the lease.

g. The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.

h. The ACOH Subsidy Standards including when and how exceptions are made and how the voucher size relates to the unit size selected.

i. The HUD brochure on how to select a unit and the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

j. The HUD pamphlet on lead-based paint entitled *Protect Your Family From Lead in Your Home*.

k. Information on Federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form.

l. The ACOH will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines.

m. A list of landlords or other parties willing to lease to assisted families or help in the search. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.

n. If the family includes a person with disabilities, notice that the ACOH will provide a list of available accessible units known to the ACOH.

o. The family obligations under the program.

p. The grounds on which the ACOH may terminate assistance for a participant family because of family action or failure to

act.

- q. ACOH informal hearing procedures including when the ACOH is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- r. An explanation of how portability works,.

2. Information which ACOH May Include: The ACOH may also include any of the following informational tools in the briefing packet:

- a. Procedures for notifying the ACOH and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
- b. The family's rights as a tenant and a program participant.
- c. Requirements for reporting changes between annual re-certifications.
- d. Information on security deposits and legal referral services.
- e. Exercising choice in residency.
- f. Choosing a unit carefully and only after due consideration.
- g. The Family Self-Sufficiency program and its advantages.

If the family includes a person with disabilities, the ACOH will ensure compliance with 24 CFR 8.6 to ensure effective communication.

C. Move Briefing: A move briefing will be held for participants who will be reissued a voucher to move and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.

D. Owner Briefing: Briefings are held for owners on a periodic basis. All new owners receive a personal invitation and current owners are notified by mail. Prospective owners are also welcome. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties.

E. Signature Briefing: All new owners may be required to attend a signature briefing with the family head at either the office or the unit to execute contracts and leases. Other owners will be encouraged to attend signature briefings to reduce future conflict between the owner and the tenant. The ACOH will provide details on the program rules and relationships and responsibilities of all parties.

8.4 ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION:

A. HUD Requirements: SEMAP requires the ACOH to adopt and implement a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration. The ACOH will

inform voucher holders of the full range of areas where they may lease both inside and outside of the ACOH's jurisdiction. This jurisdiction is defined as the areas inside Albemarle County, as well as the surrounding counties, and other states. The ACOH will supply a list of landlords or other parties who are willing to lease units or help family find units, including units outside areas of poverty or minority concentrations.

B. ACOH Briefings: At the briefing, families are encouraged to search for housing in non-impacted areas and the ACOH will provide assistance to families who wish to do so.

8.5 ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION: The ACOH will give participants a copy of HUD Form 903 to file a complaint.

8.6 SECURITY DEPOSIT REQUIREMENTS: [24 CFR 982.313]

- A. The owner is not required to but may collect a security deposit from the tenant. Security deposits charged to families may be any amount the owner wishes to charge, subject to the following conditions.

- B. Leases Effective on or after October 2, 1995
 - 1. Security deposits charged by owners may not exceed those charged to unassisted tenants or the maximum two months rent to owner as prescribed by State or local law.
 - 2. Responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

- C. Leases Effective Prior to October 2, 1995
 - 1. The amount of the Security Deposit which could have been collected by owners under contracts effective prior to October 2, 1995 was such that the amount could not exceed Total Tenant payment or Fifty Dollars (\$50), whichever is greater, for non lease-in-place families.
 - 2. In limited instances where pre-merger voucher contracts are still in effect, under the pre-merger voucher program, the owner at his/her discretion, could have collected a Security Deposit in an amount not the exceed ACOH's policy of greater than 30% of the adjusted monthly income or \$50 for non-lease-in-place families.

3. The amount charged to unassisted tenants [up to a maximum of one month's rent]. The Security Deposit may not exceed the maximum allowed under state or local law.

8.7 TERM OF VOUCHER: [24 CFR 982.303, 24 CFR 982.54(d)(11)] During the briefing session, each household will be issued a voucher, which represents a contractual agreement between the ACOH and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program, which occurs when the lease and contract become effective.

A. Expirations: The initial term voucher is valid for a period of at least sixty calendar days from the date of issuance. The family must submit a Request for Approval of the Tenancy and Lease within the sixty-day period unless an extension has been granted by the ACOH. In accordance with 24 CFR 982.303 (b)(2) If the family needs and request an extension of the initial voucher term as a reasonable accommodation, to make the program accessible to a family member who is a person with disabilities, the ACOH must extend the voucher term up to the term reasonably required for that purpose.

If the voucher has expired, and has not been extended by the ACOH or expires after an extension, the family will be denied assistance. The family may request a review to demonstrate good cause beyond the voucher holder's control. This request must occur within 10 calendar days of the expiration date. If the family is currently assisted, then they may remain as a participant in their unit provided that an assisted lease/contract is in effect.

B. Suspensions: When a Request for Approval of Tenancy is received, the ACOH will deduct the number of days required to process the request from the 60-calendar-day term of the voucher.

- **Extensions:** A family may request an extension of the Voucher time period. All requests for extensions must be received in writing prior to the expiration date of the Voucher. Extensions are permissible at the discretion of ACOH up to a maximum of and additional 60 days primarily for these reasons:
 - Extenuating circumstances such as hospitalization or a family emergency for an extended period of time. Verification is required
 - The family has made a reasonable effort to locate a unit, including seeking the assistance of the Housing Office, throughout the initial 60 day period. A completed search log is required.
 - The family was prevented from finding a unit due to disability accessibility requirements or large size unit requirements. A completed search log is required.

The ACOH makes 30 calendar day extensions available to voucher holders. Unless approved by the Chief of Housing, no more than two extensions of 30 calendar days or less will be granted and never for a total of more than an additional 60 calendar days, except to accommodate a disability or for other good cause shown.

D. Tolling: The definition of tolling time is the difference in time from which a tenant submits the Request for Tenancy Approval (RFTA) and the time in which we determine eligibility of the unit. Once the tenant submits the RFTA to ACOH the sixty (60) day voucher time stops (temporarily) until eligibility is determined. If the unit fails eligibility, another RFTA is then given to the tenant to continue the search for an eligible unit and the balance of the sixty (60) day time begins. And this process continues until the sixty (60) day time on voucher has expired.

E. Assistance to Voucher Holders: Families who require additional assistance during their search may call the ACOH office to request assistance. Voucher holders will be notified at their briefing session that the ACOH periodically updates the listing of available units. ACOH will make the updated list available to voucher holders upon request.

The ACOH will assist families with negotiations for a unit and provide other assistance related to the families' search for housing.

8.8 VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS:

[24 CFR 982.315] In those instances when a family assisted under the Section 8 program divides into two otherwise eligible families due to divorce, legal separation, or the division of the family, the ACOH will look first for a family agreement. If the new families cannot agree as to which new family unit should continue to receive the assistance, the ACOH will look for a judicial determination in a temporary or final order executed by a court of competent jurisdiction.

If there is no family agreement or judicial determination, then the Chief of Housing shall consider the following factors to determine which of the families will continue to be assisted:

- A. Which of the two new family units has custody of dependent children;
- B. Which family member was the head of household when the voucher was initially issued (listed on the initial application).
- C. The composition of the new family units, and which unit contains elderly or disabled members.
- D. Whether domestic violence was involved in the breakup.
- E. Which family members remain in the unit.
- F. Recommendations of social service professionals.

Documentation of the factors listed above will be the responsibility of the requesting parties.

If documentation is not provided, the ACOH will terminate assistance on the basis of failure to provide information necessary for a re-certification.

8.9 REMAINING MEMBER OF TENANT FAMILY - RETENTION OF

VOUCHER: [24 CFR 982.315] To be considered the remaining member of the tenant

family, the person must have been previously approved by the ACOH to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

In order for a minor child to continue to receive assistance as a remaining family member:

- A.** The court has to have awarded emancipated minor status to the minor, or
- B.** The ACOH has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit size.

Chapter 9

REQUEST FOR APPROVAL OF TENANCY AND CONTRACT EXECUTION

[24 CFR 982.302]

9.1 INTRODUCTION: [24 CFR 982.305(a)] The ACOH's program operations shall efficiently utilize available resources and provide eligible families with timely assistance for all budgeted units. The ACOH's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the ACOH jurisdiction, or outside of the ACOH jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Program (HAP) Contract with ACOH. This chapter defines the types of eligible housing, the ACOH's policies on initial inspections, lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RFTA).

9.2 REQUEST FOR APPROVAL OF TENANCY: [24 CFR 982.302, 24 CFR 982.305(b)]

A. RFAT: The Request for Approval of Tenancy and a copy of the proposed lease, including the HUD tenancy addendum, must be submitted to ACOH by the family during the term of the voucher. The family must submit the RFAT in the form and manner required by the ACOH.

Both the owner and the voucher holder must sign the RFAT.

The ACOH will not permit the family to submit more than one RFAT at a time.

The ACOH will review the proposed lease and the RAFT documents to determine whether or not they are acceptable. The request will be approved if:

1. **The unit is an eligible type of housing**
2. **The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)**
3. **The rent is reasonable**
4. **The security deposit is in accordance with any limitations in this plan.**
5. **The proposed lease complies with HUD and ACOH requirements (See "Lease Review" section below).**
6. **The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below).**

At the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly-adjusted income.

B. Disapproval of RFAT: If the ACOH determines that the request cannot be approved for any reason, then the landlord and the family will be notified in writing. The ACOH will instruct the owner and family of the steps that are necessary to approve the request.

The owner will be given 30 calendar days from the date of disapproval to submit an approvable RFAT. ACOH may in their sole discretion grant an extension for good cause.

When, for any reason, a RFAT is not approved, the ACOH will furnish another RFAT form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

9.3 ELIGIBLE TYPES OF HOUSING: [24 CFR 982.353] The ACOH will approve any of the following types of housing in the voucher program:

A. All dwelling unit types such as apartments, homes, and duplexes can be utilized.

B. Manufactured homes where the tenant leases the mobile home and the pad.

C. Manufactured homes where the tenant owns the mobile home and leases the pad.

D. Group homes

E. Congregate facilities (only the shelter rent is assisted)

F. Single room occupancy

A family can own a rental unit but cannot reside in it while being assisted, except in cases where the tenant owns the mobile home and leases the pad.

The ACOH may not permit a voucher holder to lease a unit that receives project-based Section 8 assistance or any duplicative rental subsidies.

9.4 LEASE REVIEW: [24 CFR 982.308]

A. Lease Review Generally: The ACOH will review the lease, noting the optional charges and whether the lease complies with all Federal regulations and state and local law. The tenant must have legal capacity to enter into a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFAT.

The family and owner must submit a standard lease used in the locality by the owner that is used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with state and local law.

B. Lease Specifications: The lease must specify:

1. The names of the owner and tenant;
2. The address of the unit rented (including apartment number, if any);
3. The amount of the monthly rent to owner;

4. The term of the lease;
5. The utilities and appliances to be supplied by the owner and;
6. The utilities and appliances to be supplied by the family.
7. The HUD tenancy addendum must be included in the lease word-for-word AND/OR clearly attached and incorporated into the lease by reference before the lease is executed.
8. Effective September 15, 2000, the owner's lease must include the Lead Paint Warning Statement and disclosure information required by 24 CFR 35.92(b).
9. The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.
10. The lease must also provide that an owner may evict a family when the owner determines that:
 - a. **Any household member is illegally using a drug; or**
 - b. **A pattern of illegal use of drugs by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.**
11. The lease must provide that the following types of criminal activity are grounds to terminate the tenancy:
 - a. **Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);**
 - b. **Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or**
 - c. **Any violent criminal activity on or near the premises by a tenant, household member, or guest; or**
 - d. **Any violent, criminal activity on the premises by any other person under the tenant's control.**
12. The lease must provide that the owner may terminate tenancy if a tenant is:
 - a. **Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempting to commit a crime, that is a felony under the laws of the place from which the individual flees (e.g. serious misdemeanor in NJ); or**
 - b. **Violating a condition of probation or parole imposed under Federal or State law.**
13. House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the ACOH, that they do

not violate any fair housing provisions and that they do not conflict with the tenancy addendum.

C. Actions Before Lease Termination: All of the following must be completed before the initial lease term on a unit:

1. The ACOH has inspected the unit and determined that the unit satisfies the HQS;
2. The ACOH has determined that the rent charged by the owner is reasonable;
3. The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;
4. The ACOH has approved leasing the unit in accordance with program requirements;
5. When the gross rent exceeds the applicable payment standard for the family, the ACOH must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

9.5 SEPARATE AGREEMENTS: ACOH prohibits illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease. All participants and owners will be advised of this prohibition.

The family is not liable under the lease for unpaid charges covered by separate agreements. Nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the ACOH.

Any appliances, services or other items that are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the ACOH. If agreements are entered into at a later date, they must be approved by the ACOH and attached to the lease.

9.6 INITIAL INSPECTIONS: [24 CFR 982.305(a) & (b)] See "Chapter 19 Housing Quality Standards and Inspections" requirements for different types of Housing.

9.7 RENT LIMITATIONS: [24 CFR 982.507] The ACOH will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a

comparable unassisted unit in the building or premises.

By accepting each monthly housing assistance payment from the ACOH, the owner certifies that the rent is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the ACOH with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent may not be more than the most current reasonable rent as determined by the ACOH.

9.8 DISAPPROVAL OF PROPOSED RENT: In any of the programs, if the proposed gross rent is not reasonable, at the family's request, the ACOH will negotiate with the owner to reduce the rent to a reasonable rent. If, in the voucher program, the rent is not affordable because the family share would be more than 40% of the family's monthly adjusted income, the ACOH will negotiate with the owner to reduce the rent to an affordable rent for the family.

If the rent can be approved after negotiations with the owner, the ACOH will continue processing the Request for Approval of Tenancy and lease. If the revised rent involves a change in the provision of utilities, the owner must submit a new Request for Approval of Tenancy.

If the owner does not agree on the rent to owner after the ACOH has tried and failed to negotiate a revised rent, the ACOH will inform the family and owner that the lease is disapproved.

9.9 INFORMATION TO OWNERS: [24 CFR 982.307(b), 24 CFR 982.54(d)(7)] In accordance with HUD requirements, the ACOH will furnish prospective owners with the family's current address as shown in the ACOH's records and, if known to the ACOH, the name and address of the landlord at the family's current and prior address.

The ACOH will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The ACOH will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and for compliance with other essential conditions of tenancy.

A statement of the ACOH's policy on releases of information to prospective landlords will be included in the briefing packet that is provided to the family. The ACOH will provide the following types of information to landlords:

- A. The ACOH will provide documented information regarding tenancy history.
- B. The ACOH will provide any tenancy/eviction history from documentation in its possession, including information concerning drug trafficking by family members.
- C. The information will be provided for the previous two years.
- D. The information will be provided orally, or in writing if requested.

Only the ACOH staff may provide this information. ACOH will apply this policy of notification to owners uniformly for all participant families.

9.10 OWNER DISAPPROVAL: [24 CFR 982.306] See Chapter 16 on disapproval and restriction of Owners.

9.11 CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HOUSING ASSISTANCE PROGRAM (HAP) EFFECTIVE DATE: When the family reports changes in factors that will affect the total family share prior to the effective date of the HAP contract at admission, the information will be verified and the total family share will be recalculated. If the family does not report any change, the ACOH need not obtain new verifications before signing the (HAP) contract, even if verifications are more than 60 days old.

9.12 CONTRACT EXECUTION PROCESS: [24 CFR 982.305(c)] The ACOH prepares the Housing Assistance Contract for execution. The family and the owner will execute the lease agreement, and the owner and the ACOH will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. The ACOH will retain a copy of all signed documents.

The ACOH makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed more than 60 calendar days after commencement of the lease term and no payments will be made until the contract is executed. Any HAP contract signed after the 60-day calendar period is void and the ACOH must not pay any assistance to the owner.

The following ACOH representatives are authorized to execute a contract on behalf of the ACOH: the Chief of Housing, Rental Assistance Coordinator and the Assistant County Executive.

Owners must provide an employer identification number or social security number, and a copy of their driver's license or other photo identification. If ownership cannot be validated through third party verification, owners must submit proof of ownership of the property, such as a grant deed or tax bill. A copy of the management agreement if the property is managed by a management agent must be submitted. Also the owner's telephone number and business number must be submitted if applicable.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The ACOH will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

9.13 CHANGE IN OWNERSHIP: See Chapter 16 on "Owner Disapproval and Restriction.

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

10.1 INTRODUCTION: Housing Quality Standards (hereinafter “HQS”) are the HUD minimum quality standards for tenant-based programs. All program housing must meet HQS performance standards both at initial occupancy and annually during the term of the lease. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and ACOH requirements. (See additions to HQS). HQS standards apply to the building, premises, and the unit annually. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The ACOH will inspect each unit under contract at least annually. The ACOH will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the ACOH’s required standards and to assure consistency in the ACOH’s program. This chapter describes the ACOH’s procedures for performing HQS and other types of inspections, and ACOH standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners.

10.2 GUIDELINES/TYPES OF INSPECTIONS: [24 CFR 982.401(a), 24 CFR 982.405]

- A. Local Building and Housing Code:** All units must meet the minimum standards set forth in the Albemarle County Building/Housing Code. In cases of inconsistency between the Code and these HQS, the stricter of the two shall prevail.
- B. Promoting Available:** ACOH will make efforts at all times to encourage owners to provide housing above HQS minimum standards. The ACOH will not promote any additional acceptability criteria likely to adversely affect the health or safety of participant families, or severely restrict housing choice.
- C. Utilities Requirements:** All utilities must be in service prior to the inspection. If the utilities are not in service at the time of inspection, the inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RFAT) to have the utilities turned on. The inspector will schedule a re-inspection.
- D. Abuse of Appliances:** If the tenant is responsible for supplying the stove and/or the refrigerator, the ACOH will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The ACOH will conduct a re-inspection.
- E. Types of Inspections:** There are six types of inspections the ACOH will perform:
 - 1. Initial/Move-in: Conducted upon receipt of Request for Approval of

Tenancy.

2. Annual: Must be conducted within twelve months of the last annual inspection.
3. Move-Out/Vacate (for pre 10/2/95 contracts where there could be damage claims) and upon request.
4. Special/Complaint: At request of owner, family or an agency or third party.
5. Quality Control
6. Re-inspections: Follow-up for failed, incomplete or unable to conduct inspections.

10.3 INITIAL HQS INSPECTION/ACTIONS BY ACOH BEFORE LEASE TERMINATION: [24 CFR 982.401(a), 24 CFR 982.305(b)(2)]

A. Timely Initial HQS Inspection:

1. Time Limit for ACOH Inspection. The ACOH will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days after the family and the owner have submitted a request for approval of tenancy.
2. Suspension of Term.
 - a. The same 15-day clock will be suspended during any period when the unit is not available for inspection.
 - b. The ACOH will include “date unit available for inspection” on the RFAT form. This date will determine whether the ACOH will be required to meet the same 15-day requirement or whether the ACOH will suspend the same 15-day period because the unit is not available for inspection until after the same 15-day period.

B. Inspection Criteria: The Initial Inspection will be conducted to:

1. Determine if the unit and property meet the HQS defined in this Plan and pursuant to CFR 24 982.401 et seq.
2. Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
3. Document the information to be used for determination of rent-reasonableness.

D. If Unit Fails HQS: If the unit fails the initial Housing Quality Standards inspection, the family and owner will be advised to notify the ACOH once repairs are completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as Fail, at the inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to 2 re-inspections for repair work to be

completed.

If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

10.4 ANNUAL HQS INSPECTIONS: [24 CFR 982.405(a)]

A. Time and Notice for Inspections: At least annually the ACOH conducts an inspection in accordance with HQS. ACOH will notify the family in writing at least 90 days prior to the re-certification date. ACOH will request that the family contact ACOH's designated inspector to set a date and time of the inspection appointment. The family must contact the inspector within 10 days of receipt of the letter to schedule the inspection. If the family fails to contact the inspector upon receipt of the first letter a second is sent notifying the family that the unit must be inspected in order for the rental assistance to continue. The family must allow the ACOH to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)]. ACOH will schedule the next inspection 60 days prior to the last annual inspection, so that the inspections are conducted at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates.

B. Failure to Pass HQS / Schedule Appointment: The landlord must correct HQS deficiencies that cause a unit to fail unless it is a failure for which the tenant is responsible.

If the family does not contact the ACOH to reschedule the inspection, or if the family misses 2 inspection appointments, the ACOH will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.

The family is also notified that it is a Family Obligation to allow the ACOH to inspect the unit. If the family was responsible for a breach of HQS identified in the "Denial or Termination of Assistance" chapter of this Administrative Plan, they will be advised of their responsibility to correct.

C. Time Standards for Repairs

1. Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See Emergency Repair Items section.)
2. For non-emergency items, repairs must be made within 30 days.
3. For major repairs, the HQS Inspector may approve an extension beyond 30 days.

D. Rent Increases: Rent to owner increases may not be approved if the unit has failed the HQS Inspection.

10.5 SPECIAL INSPECTIONS:

A. Move Out / Vacate: A move out inspection will be performed only at the landlord's or the tenant's request.

B. Special / Complaint Inspections [24 CFR 982.405(c)]: If at any time the family or owner notifies the ACOH that the unit does not meet Housing Quality Standards, the ACOH will conduct an inspection.

The ACOH may also conduct a special inspection based on information from third parties such as neighbors or public officials.

The ACOH will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

C. Quality Control Inspections [24 CFR 982.405(b)]: Quality Control inspections will be performed by the Albemarle County Chief of Housing or the Housing Inspector from the Charlottesville Redevelopment and Housing Authority on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

10.6 ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS: [24 CFR 982.401 (a)]

- A. The ACOH adheres to the following acceptability criteria and Albemarle County codes:
 - 1. HQS Standards as articulated by 24 CFR 982.401 et seq.
 - 2. Local Codes [24 CFR 982.401(a)(4)]
 - 3. Local Zoning and Administrative Codes
- B. **Modifications:** Modifications or adaptations to a unit due to a disability must meet all applicable HQS and local building codes.

Extension for repair items not required by HQS will be granted for adaptations to the unit if agreed to by the tenant and landlord. ACOH will allow execution of the HAP contract if a unit meets all requirements and the modifications do not affect the livability of the unit.

10.7. EMERGENCY REPAIR ITEMS: [24 CFR 982.404(a)] The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector:

- A. Lack of security for the unit
- B. Waterlogged ceiling in imminent danger of falling
- C. Major plumbing leaks or flooding
- D. Natural gas leak or fumes
- E. Electrical problem which could result in shock or fire

- F. No heat when temperature inside unit is below 60 degrees Fahrenheit.
- G. Utilities not in service
- H. No running hot water
- I. Broken glass where someone could be injured
- J. Obstacle which prevents tenant's entrance or exit
- K. Lack of functioning toilet
- L. In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the ACOH.
- M. If the emergency repair item(s) are not corrected in the time period required by the ACOH, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.
If the emergency repair item(s) are not corrected in the time period required by the ACOH, and it is an HQS breach, which is a family obligation, the ACOH will terminate the assistance to the family.
- N. **Smoke Detectors:** Inoperable smoke detectors are a serious health threat and will be treated by the ACOH as an emergency (24 hour) fail item.

If the smoke detector is not operating properly the ACOH will contact the owner by phone and request the owner to repair the smoke detector within 24 hours. The ACOH will re-inspect the unit the following day.

If the ACOH determines that the family has purposely disconnected the smoke detector the family will be required to repair the smoke detector within 24 hours and the ACOH will re-inspect the unit the following day. The ACOH will also issue a written warning to the family determined to have purposely disconnected the unit's smoke detector. The written warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard, and is considered a violation of the HQS and Family Obligations.

10.8 CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS): [24 CFR 982.405, 24 CFR 982.453]

A. Abatement: When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the ACOH, the assistance payment to the owner will be abated.

A Notice of Abatement and subsequent notices will be sent to the owner and the family, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for 15 days, depending on the nature of the repair(s) needed.

The ACOH will inspect abated units within 5 days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the ACOH's portion of rent that is abated.

B. Termination of Contract: If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination will be rescinded by the ACOH provided the tenant chooses to remain in the unit. Only one Housing Quality Standards inspection will be conducted after the termination notice is issued unless the inspector determines additional inspections are appropriate.

10.9 DETERMINATION OF RESPONSIBILITY: [24 CFR 982.404, 982.54(d)(14)]

A. Tenant's HQS Responsibilities: Certain HQS deficiencies are considered the responsibility of the family:

1. Tenant-paid utilities not in service
2. Failure to provide or maintain family-supplied appliances
3. Damage to the unit or premises caused by a household member or guest beyond normal wear and tear.

B. Owner's HQS Responsibilities:

1. The owner must maintain a unit in accordance with HQS. Owners are responsible for all other HQS violations. Non-emergency HQS violations must be completed within 30 business days.
2. The owner is responsible for vermin infestation even if the family's living habits contributed. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The ACOH may terminate the family's assistance on that basis.

10.10 CONSEQUENCES IF FAMILY IS RESPONSIBLE: [24 CFR 982.404(b)] If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the ACOH will require the family make any repair(s) or corrections within 30 of days. If the repair(s) or correction(s) are not made in this time period, the ACOH will terminate assistance to the family, after providing an opportunity for an informal hearing. The HQS Inspector must approve extensions in these cases. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP contract will terminate when assistance is terminated.

Section 8 Policy #1001:

Current Section 8 Administrative Plan clearly notes all policies associated with Housing Quality Standard Inspections including quality control processes.

Per that policy, current practices include filing each completed inspection booklet in each client file at the time it is completed. Additionally, 12 units (5%) annually are subject to quality control inspections by a third party provider [currently conducted by HQS inspection staff at the Charlottesville Redevelopment and Housing Authority] within 90 days of the last inspection. Upon receipt of the quality control inspection [from CRHA], the inspection form is marked "Quality Control" is placed in the tenant's file.

Discrepancies found between the initial inspection and the quality control inspection will be documented and a corrective action plan developed and implemented if necessary. Record of quality control inspections and subsequent documentation will be maintained in the Housing Office by the Rental Assistance Coordinator (2/2006).

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS [24 CFR 982.502, 24 CFR 982.503, 24 CFR 982.504, 24 CFR 982.505, 24 CFR 982.507]]

11.1 INTRODUCTION:

A. **Merger Date:** The policies in this chapter reflect the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999. This date is called the "merger date." These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

B. **Rent Reasonableness Policy:** The ACOH will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the ACOH's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This chapter explains the ACOH's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

11.2 RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM:

The rent to an owner must comply with two standards:

A. **Rent Reasonableness Standard:** The rent to an owner is limited only by the rent reasonableness standard. The ACOH must demonstrate that the rent to an owner is reasonable in comparison to rent for other comparable unassisted units.

B. **Maximum Rent At Initial Occupancy:** The only other limitation on rent to an owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable payment standard for the family, the family share may not exceed 40 percent of the family's monthly adjusted income. This income verification must not be more than 60 days old.

In addition, a lease may not raise the rent during the initial term of the lease.

11.3 MAKING PAYMENTS TO OWNERS: [24 CFR 982.451]

A. **Payment to the Owner:** Once the HAP contract is executed, the ACOH begins processing payments to the landlord. The term of the HAP Contract is the same term as the lease. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made manually to the HAP Register for the following month. The ACOH disburses

checks to the owner each month.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

B. Excess Payments: The total of rent paid by the tenant plus the ACOH housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the ACOH.

Owners who do not return excess payments will be subject to penalties on debts owed to the ACOH.

C. Late Payments by ACOH: The ACOH will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the ACOH's control, such as a delay in the receipt of program funds from HUD.

The ACOH will use administrative fee income or the administrative fee reserve as its only source for late payment penalty. The ACOH will not use any program funds for the payment of late fee penalties to the owner.

11.4. RENT REASONABLENESS DETERMINATIONS: [24 CFR 982.507]

Guidelines require ACOH to have a reasonable written methodology for determining rent reasonableness in its Administrative Plan.

The ACOH will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

A. When To Make A Rent Reasonableness Determination: The ACOH will only approve a lease under the following circumstances:

- 1. Initial Lease Term:** The ACOH must determine that the initial rent to owner is a reasonable rent.
- 2. Increases in Rent:** The ACOH must re-determine the rent reasonable before any increase in the rent to an owner.
- 3. Published Decrease in Fair Market Value:** If there is a five percent decrease in the published FMR in effect 60 days before a contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before a contract anniversary, then the ACOH must do a new rent reasonableness calculation.
- 4. HUD Directed Determinations:** The ACOH must re-determine rent reasonableness if directed by HUD and/or if there is a reason identified by the ACOH's auditing system to re-evaluate. The ACOH may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the most recent rent reasonableness as determined /re-determined by the ACOH.

B. Owner's obligation Under the Rent Reasonableness Standard: The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent

charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the ACOH information on rents charged by the owner for other units in the premises or elsewhere.

- C. Sources for Calculation of Rent Reasonableness:** The data for other unassisted units will be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The market areas for rent reasonableness are neighborhoods within the ACOH's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area. ACOH will look at neighborhoods in the immediate vicinity for market area data. If units in the immediate vicinity are not comparable, other units elsewhere in the area may be considered with adjustments for crime, perception of crime, curb appeal, concentration race, economic and educational levels.

- D. Documentation of Rent Reasonableness:** The following items will be used for rent reasonableness documentation:

1. Size (number of Bedrooms/square footage)
2. Location
3. Quality
4. Amenities (bathrooms, dishwasher, air conditioning, etc.)
5. Housing Services
6. Age of Unit
7. Unit Type
8. Maintenance
9. Utilities

- E. Rent Reasonableness Methodology:** ACOH uses an appraisal method and tests the subject unit against selected units in the same area with similar characteristics. Adjustments are made for favorable and unfavorable differences between the subject unit and comparables. Each of the HUD factors is given a point value.

ACOH maintains an automated database that includes data on unassisted units. Staff utilizes this information in making rent reasonableness determinations. The data is updated on an ongoing basis and purged when it is more than 18 months old.

The local market is surveyed to determine what unassisted units on the private market are renting for on an annual basis. Using the information that is gathered from the landlords and property managers in the survey, points are assigned to those rental units. If utilities are not included in the rent, ACOH calculates a utility allowance to add to the rent to get gross rent. From this information ACOH builds a database of rental units in the private market to determine what units are renting for in the area.

By assigning points to a unit based of the Rent Comparability Form,

ACOH is able to rate the unit as fair, average, good, and excellent. Looking at the units on the private market that fall within each of these categories, ACOH is able to determine the highest and lowest rents charged in a given category. This data provides the rent ranges for the rent reasonableness determination.

When the inspection of a Section 8 unit is performed, the unit is rated based on the established point system. The points for the unit are totaled from various categories. The reasonable rent is determined by comparing the total points for the unit to those on the chart from the private market.

11.5 PAYMENT STANDARDS FOR THE VOUCHER PROGRAM: [24 CFR 982.503] The Payment Standard is used to calculate the monthly housing assistance payment for a family. In accordance with HUD regulation, and at the ACOH's discretion, the Voucher Payment Standard amount is set by the ACOH between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The ACOH reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the ACOH will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The ACOH will establish a single voucher payment standard amount for each FMR area in the ACOH jurisdiction. For each FMR area, the ACOH will establish payment standard amounts for each "unit size." The ACOH may have a higher payment standard within the ACOH's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The ACOH may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

11.6 ADJUSTMENTS TO PAYMENT STANDARDS: [24 CFR 982.503] Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The ACOH will not raise Payment Standards solely to make "high end" units available to Voucher holders. The ACOH may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

A. Assisted Families' Rent Burdens: The ACOH will review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

B. Lowering of the Payment Standard: Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

C. Financial Feasibility: Before increasing the Payment Standard, the ACOH may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the ACOH will compare the number of families who could be served under a higher Payment Standard with the number assisted under the current Payment Standards.

D. File Documentation: The ACOH shall maintain documentation for at least three years as to the agency's analysis and findings on the yearly Payment Standard. This documentation shall be maintained regardless of whether there was a change in payment standard.

11.7 EXCEPTION PAYMENT STANDARDS: If the dwelling unit is located in an exception area, the ACOH must use the appropriate payment standard amount established by the ACOH for the exception area in accordance with regulation at 24 CFR 982.503(c).

To prevent financial hardship for families, and increase housing choice opportunities, the ACOH may request approval from the Assistant Secretary of Public and Indian Housing to establish an exception payment standard of 120% of the FMR for designated areas within its jurisdiction. Currently, the ACOH has not applied to receive HUD approval to establish a payment standard amount that is higher or lower than the basic range. Should the ACOH request an exception payment standard, areas, types and sizes will be delineated.

11.8. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM: [(24CFR 982.308(g)] The owner is required to notify the ACOH, in writing, at least sixty days prior to any change in the rental amount. Any requested change in rent to an owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.

Section 8 Policy #1000:

In addition to all approved Section 8 policies and procedures, assigned staff will review annually a minimum of 6 client files reporting zero income for completeness and accuracy. Errors will be documented and a corrective action plan developed and implemented if necessary. Record of quality control reviews and subsequent documentation will be maintained in the Housing Office by the Rental Assistance Coordinator (2/2006).

Section 8 Policy #1004:

Assigned staff will review 10 Section 8 client files per month for completeness and accuracy. Errors will be documented and a corrective action plan developed and implemented if necessary. Record of quality control reviews and subsequent documentation will be maintained in the Housing Office by the Rental Assistance Coordinator (2/2006).

Chapter 12

RECERTIFICATIONS

[24 CFR 982.516]

12.1 INTRODUCTION: In accordance with HUD requirements, the ACOH will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Re-certifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition. This Chapter defines the ACOH's policy for conducting annual re-certifications and coordinating annual activities. It also explains the interim reporting requirements for families and the standards for timely reporting.

12.2 ANNUAL ACTIVITIES: [24 CFR 982.516, 24 CFR 982.405] There are three activities the ACOH must conduct on an annual basis (hereinafter "annual activities"). The ACOH must produce a monthly listing of Section 8 units to ensure that each unit has a timely review of the following activities annually:

- A. Re-examination and Recertification of income and family composition.
- B. HQS inspection: see "Housing Quality Standards and Inspections" chapter.
- C. Rent to owner adjustment and calculation of the Total Tenant Payment: Must follow HUD requirements. See Chapter 11 on "Owner Rents, Rent Reasonableness and Payment Standards".

Whenever possible the annual activities will be coordinated so as to be convenient to all parties.

12.3 ANNUAL RE-CERTIFICATION/RE-EXAMINATION: [24 CFR 982.516] Families' re-certification must occur at least annually.

A. **Moves Between Reexaminations:** When families move to another dwelling unit, an annual re-certification will be scheduled. If a re-certification has occurred in the past 60 calendar days, then the anniversary date will be changed to the certification date that just occurred in the last 60 calendar days.

Income limits are not used as a test for continued eligibility at re-certification.

B. Re-examination Notice to the Family:

1. **Notice Deadline/ Procedure:** The ACOH will maintain a re-examination tracking system and the household will be notified by mail of the date and time for their interview at least 90 calendar days in advance of the anniversary date. The ACOH will schedule the date and time of appointments in advance and mail a notification to the family of that date and time.

2. Reasonable Accommodation during Re-examination: If requested as an accommodation by a person with a disability, the ACOH will provide the notice in an accessible format. The ACOH will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that an individual meets the need presented by the disability.

C. Completion of Annual Re-certification:

1. Completion Date: The ACOH will have all re-certifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

2. Persons with Disabilities: Persons with disabilities who are unable to come to the ACOH's office will be granted an accommodation by conducting the interview at the person's home upon verification that the accommodation requested meets the need presented by the disability

D. Collection of Information: [24 CFR 982.516(f)], [24 CFR 982.516] The ACOH implements a re-certification procedure designed to ensure that the income data provided by families is complete and accurate.

In accordance with 24 CFR 982.516 Family income and composition for regular and interim re-examination. The ACOH representative will interview the family and enter the information provided by the family on the re-certification form, review the information with the family and have them sign the form. This system must utilize the Personal Declaration Form so that the ACOH has information in the family representative's own handwriting.

E. Requirements to Attend: All adult family members will be required to attend the re-certification interview. If the head of household is unable to attend the interview, the appointment will be rescheduled. ACOH will evaluate on a case-by-case basis whether to reschedule the appointment if other adult household members are unable to attend

F. Failure to Respond to Notification to Recertify: The written notification sent to a family for re-certification must state which family members are required to attend the interview. The family may call to request another appointment date.

If the family does not appear for the re-certification interview, and has not rescheduled or made prior arrangements with the ACOH, the ACOH may reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the ACOH will:

1. send family notice of termination and
2. offer them an informal hearing.

Exceptions to these policies may be made if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

G. Verification of Information: [24 CFR 982.516] In accordance with 24 CFR 982.516 Family income and composition for regular and interim re-examination. The ACOH will follow the verification procedures and guidelines described in this Plan. Verifications for re-examinations must be less than 90 calendar days old.

H. Tenant Rent Increases: If tenant rent increases, a thirty-day notice is mailed to the family prior to the scheduled effective date of the annual re-certification.

If less than thirty days are remaining before the scheduled effective date of the annual re-certification, the tenant rent increase will be effective on the first of the month following the thirty-calendar day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual re-certification.

I. Tenant Rent Decreases: If tenant rent decreases, it will be effective on the first of the month after it is reported.

If the family causes a delay so that the processing of the re-examination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the re-examination processing by the ACOH.

12.4 REPORTING INTERIM CHANGES: [24 CFR 982.516] Program participants must report all changes in household composition to the ACOH between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain ACOH approval prior to all other additions to the household. Changes in family composition must be reported to the ACOH within 30 days of the change, addition or deletion to family composition. At re-certification, the family income must include income of all family members, including family members not related by blood or marriage.

If any new family member is added, family income must include any income of the new family member. The ACOH will conduct a re-examination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular re-certification after moving into the unit.

A . Increases in Income: ACOH has discretion to decide , when increases in income must be reported, and whether or not interim adjustments will be done

when there is an increase in income. Even if ACOH does not do interim adjustments when families have an increase in income, the ACOH can still require families to report any increases within 30 days of the increase.

B. Interim Reexamination Policy: The ACOH will conduct interim reexaminations when families have an increase in income.

Families will be required to report increases in income/assets between regular annual reexaminations within 30 days of the increase. The ACOH reserves the right to defer recalculation of total tenant payment unless the increase of income is greater than \$300 per month. This dollar figure will be adjusted periodically.

C. Decreases in Income: Participants may report a decrease in income and other changes, which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The ACOH must calculate the change if a decrease in income is reported.

D. ACOH Errors: If the ACOH makes a calculation error at admission to the program or at an annual re-examination, an interim re-examination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease due to a change in circumstances would have been effective if calculated correctly.

12.5 OTHER INTERIM REPORTING ISSUES: An interim re-examination does not affect the date of the annual re-certification.

An interim re-examination will be scheduled for families with zero income every 90 calendar days.

Any changes reported by participants other than those listed in this section will be noted in the file by the ACOH staff but will not be processed between regularly scheduled annual re-certifications.

12.6 INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS: [24 CFR 5.615]

A. Benefit Reductions: The ACOH will not reduce the family share of rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction", which is a reduction in benefits by the welfare agency specifically because of:

1. fraud in connection with the welfare program; or
2. noncompliance with the welfare agency requirement to participate in an economic self-sufficiency program.

B. When Reduction is Applicable: The ACOH will reduce the rent if the welfare assistance reduction is a result of:

1. The expiration of a lifetime time limit on receiving benefits; or
2. A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or

3. A situation where a family member, other than the head of household, has not complied with other welfare agency requirements.

C. Definition of Covered Family: A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, that a family member participates in an economic self-sufficiency program.

D. Definition of "Imputed Welfare Income" and Procedures for Management of Imputed income:

1. **Imputed Income Defined:** The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent.
2. **Determination of Imputed Income Amount:** The amount of imputed welfare income is determined by the ACOH, based on written information supplied to the ACOH by the welfare agency, including:
 - a. The amount of the benefit reduction
 - b. The term of the benefit reduction
 - c. The reason for the reduction
 - d. Subsequent changes in the term or amount of the benefit

reduction

3. The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero. If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

4. **Review of Imputed Income Calculation:** If the family claims the amount of imputed welfare income has been calculated incorrectly, the Rental Assistance Coordinator will review the calculation for accuracy. If the imputed welfare income amount is correct, the ACOH will provide a timely written notice to the family that includes:

- a. A brief explanation of how the amount of imputed welfare income was determined;
- b. A statement that the family may request an informal hearing if they do not agree with the ACOH's determination.

D. Verification Before Denying a Request to Reduce Rent: *Before* denying the family's request for rent reduction, the ACOH will obtain written

verification from the welfare agency stating that the family's benefits have been reduced by final agency action due to (1) fraud, (2) noncompliance with welfare agency economic self-sufficiency or (3) work activities requirements..

The ACOH will rely on the welfare agency's written notice to the ACOH regarding welfare sanctions.

E. Cooperation Agreements: [24 CFR 5.613] Where feasible, the ACOH will take a proactive approach to working with the local welfare agency. Through an effective working relationship, ACOH shall identify and target economic self-sufficiency programs throughout the community that are available to Section 8 tenant-based assistance families.

The ACOH and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 tenant-based assistance families.

F. Family Dispute of Amount of Imputed Welfare Income: If the family disputes the amount of imputed income and the ACOH denies the family's request to modify the amount, the ACOH will provide the tenant with a notice of denial, which will include:

1. An explanation of the ACOH's determination as to the amount of imputed welfare income.
2. A statement that the tenant may request an informal hearing.
3. A statement that the grievance information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing, will be the ACOH's determination of the amount of imputed welfare income not the welfare agency's determination to sanction the welfare benefits.

12.7 NOTIFICATION OF RESULTS OF RE-CERTIFICATIONS: [HUD Notice PIH 98-6] The HUD Form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the ACOH. If the family disagrees with the rent adjustment, they may request an informal hearing.

12.8 TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS): [24 CFR 982.516(c)]

A. Standard for Timely Reporting of Changes in Circumstances: The ACOH requires that families report interim changes in their income and/or assets (hereinafter "change in circumstances") to the ACOH within 30 days of when the change occurs. Any information, document or signature needed from the family to verify the change in circumstances must be provided within 30 days of the change.

If the change in circumstances is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

B. Procedures when the Change in Circumstances is Reported in a Timely Manner: The ACOH will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

1. Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice of this change in rental amount.
2. Decreases in the Tenant Rent are effective the first of the month following ACOH's receipt of a signed verification documenting the change in circumstances.

C. Procedures when the Change is Not Reported by the Family in a Timely Manner: If the family does not report the change in circumstances as described under Section 12.8 A for Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

1. Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to make a lump sum payment or sign a Repayment Agreement.
2. Decrease in Tenant Rent will be effective on the first of the month following the month that the change in circumstances was reported and all necessary releases are signed.

D. Procedures when the Change in Circumstances is Not Processed by the ACOH in a Timely Manner: "Processed in a timely manner" means that the rent change goes into effect on the date it should take effect for a family who reports their change in circumstances in a timely manner.

For cases where the ACOH did not process the change in circumstances in a timely manner, an increase in rent will be effective after the ACOH sends the required thirty days' notice. If the change in circumstances resulted in a decrease in rent, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

12.9 CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY

COMPOSITION CHANGES: [24 CFR 982.516(c)] See Chapter 5 for "Subsidy Standards."

12.10 CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES: Under the Non-citizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The Non-citizens Rule was implemented on or after November 29, 1996, and mixed

families may receive prorated assistance only.

12.11 MISREPRESENTATION OF FAMILY CIRCUMSTANCES: If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the ACOH may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

Section 8 Policy #1002:

Monthly, assigned staff will review Section 8 Program re-certification reports to determine progress in meeting re-certification deadlines. Assigned staff will review annually a minimum of 6 client files reporting zero income for completeness and accuracy. Errors will be documented and a corrective action plan developed and implemented if necessary. Record of quality control reviews and subsequent documentation will be maintained in the Housing Office by the Rental Assistance Coordinator (2/2006).

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 24 CFR 982.353, 24 CFR 982.355(a)]

13.1 INTRODUCTION: HUD regulations permit families to move with continued assistance to another unit within the ACOH's jurisdiction, or to a unit outside of the ACOH's jurisdiction under portability procedures. The regulations also allows the ACOH the discretion to develop policies, which define any limitations or restrictions on moves. This chapter defines the procedures for moves, both within and outside of the ACOH's jurisdiction, and the policies for restriction and limitations on moves.

13.2 ALLOWABLE MOVES: A family may move to a new unit with continued assistance if:

- A. **Owner Breach of HAP Contract:** The assisted lease for the old unit has terminated because the ACOH has terminated the HAP contract for owner breach.
- B. **Termination by Mutual Agreement:** The lease was terminated by mutual agreement of the owner and the family.
- C. **Notice to Vacate:** The owner has given the family a notice to vacate, has commenced an action to evict the tenant, has obtained a court judgment, or instigated any other process allowing the owner to evict the family.
- D. **Family's Notice of Termination:** The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to an owner).

13.3 RESTRICTIONS ON MOVES: [24 CFR 982.314, 24 CFR 982.552(a)]

- A. **Local Jurisdiction Moves During Initial Year:** Families will not be permitted to move within the ACOH's jurisdiction during the initial year of assisted occupancy.
- B. **Portability in the First Year:** Families who have leased up within the jurisdiction will not be permitted to move outside the ACOH's jurisdiction under portability procedures during the initial year of assisted occupancy.
- C. **Multiple Moves in One Year:** Families will not be permitted to move more than once in a 12-month period.
- D. **ACOH Denial of Moves:** The ACOH, in their sole discretion, may deny permission to move for any of the following reasons:
 - 1. There is insufficient funding for continued assistance.
 - 2. The family has violated a family obligation.
 - 3. The family owes the ACOH money or owes the landlord money and a repayment arrangement has not been reached.

E. Emergency Exceptions: The Chief of Housing may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control or for other good cause shown.

13.4 PROCEDURE FOR MOVES: [24 CFR 982.314]

A. Issuance of Voucher: Subject to the restrictions on moves, if the family has not been re-certified within the last 60 days, the ACOH will issue the voucher to move. The annual re-certification date will be changed to coincide with the new lease-up date.

If the family does not locate a new unit after being issued a voucher to move, they may remain in the current unit so long as the owner permits.

B. Notice Requirements: The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the ACOH simultaneously.

If the family wants to move to a new unit, the family must notify the ACOH and the owner before moving from the old unit. If the family wants to move to a new unit that is located outside the ACOH's jurisdiction, the notice to the ACOH must specify the area where the family wants to relocate.

ACOH conducts briefing sessions prior to the initial voucher issue date. These sessions emphasize the family's responsibility to give the owner and the ACOH proper written notice of any intent to move.

C. Time of Contract Change: In a move, assistance for the old unit terminates at the end of the month in which the tenant ceased to occupy the unit, unless proper notice was given to end a lease midmonth. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

13.5 PORTABILITY: [24 CFR 982.353] Portability applies to families moving out of or into the ACOH's jurisdiction within the United States and its territories.

13.6 OUTGOING PORTABILITY: [24 CFR 982.353, 24 CFR 982.355] Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the ACOH's jurisdiction, anywhere in the United States, in the jurisdiction of a HA with a tenant-based program. When a family requests to move outside of the ACOH's jurisdiction, the request must specify the area to which the family wants to move.

A. Restrictions on Portability:

1. Applicants: If the head or spouse lives, works or has been hired to work in the County of Albemarle by the date of their initial application for assistance, the family may be permitted to exercise portability upon initial issuance of a voucher. If the head of household

and the spouse do not have a domicile (legal residence) in the ACOH's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless the ACOH approves such move.

For a portable family that was not already receiving assistance in the ACOHs based program, the ACOH must determine whether the family is eligible for admission under the receiving HA's program.

2. Participants: After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, unless the ACOH approves the move or in the following circumstances:

- a. The receiving HA and the ACOH agree to allow the move.
- b. The family's move relates to an opportunity for education, job training, employment, or other justifiable familial reasons.

The receiving HA of a participant does not re-determine eligibility for a family that was already receiving assistance from the ACOH.

The ACOH will not permit families to exercise portability if:

- a. The family is in violation of family obligations
- b. The family owes money to the ACOH or landlord
- c. The family has moved out of the assisted unit in violation of the lease.

13.7 INCOMING PORTABILITY: [24 CFR 982.355]

A. Absorption or Administration:

1. Administration of Voucher: The ACOH will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. If administering, the family will be issued a "portable" voucher by the ACOH. The term of the voucher will not expire before the expiration date of any initial ACOH voucher. The family must submit a request for approval of tenancy for an eligible unit to the ACOH during the term of the ACOH voucher. The ACOH may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the ACOH's jurisdiction, they must contact the initial HA to request an extension. When the ACOH does not absorb the incoming voucher, it will administer the initial HA's voucher and the ACOH's policies will prevail.

2. Absorption of Voucher: The ACOH will absorb all incoming portable families provided that there is funding available. For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program. The ACOH does not re-determine eligibility for a portable family that was already receiving assistance in the initial HA Section 8 tenant-based program. The ACOH will issue a "portability voucher"

according to its own Subsidy Standards. If the family has a change in family composition that would change the voucher size, the ACOH will change to the proper size based on its own Subsidy Standards.

B. Income and Total Tenant Payment of Incoming Portables: [24 CFR 982.353(d)] The ACOH conducts an interview and re-certification of the family, which will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the ACOH's jurisdiction, the ACOH will refuse to enter into a contract on behalf of the family at \$0 assistance.

C. Requests for Approval of Tenancy: Please refer to Notice 2004-12 Housing Choice Voucher Portability Procedures and Corrective Actions-Revision of Family Portability Information, Form HUD 52665. When the family submits the Request for Tenancy Approval (RFTA), it will be processed using the ACOH's policies. A briefing will be mandatory for all porting families.

If the family does not submit a RFTA or does not execute a lease, the initial HA will be notified within 120 days by the ACOH.

If the family leases up successfully, the ACOH will notify the initial PHA within thirty (30) days, and the initial billing process will commence.

The ACOH will notify the initial PHA if the family fails to submit a Request for Tenancy Approval (RFTA) for an eligible unit within the terms of the voucher.

D. Regular Program Functions: The ACOH will perform all program functions applicable to the tenant-based assistance program, such as:

1. Annual reexaminations of family income and composition;
2. Annual inspection of the unit; and
3. Interim examinations when requested or deemed necessary by the ACOH.

E. Terminations: The ACOH will notify the initial HA in writing of any termination of assistance within 30 days of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by the ACOH, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial HA.

The initial HA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial HA notifies the ACOH that the family is in arrears or the family has refused to sign a payment agreement, the ACOH will terminate assistance to the family.

F. Required Documents: As receiving HA, the ACOH will require the documents listed on the HUD Portability Billing Form from the initial HA.

G. Billing Procedures: As receiving HA, the ACOH will bill the initial HA for housing assistance payments monthly. The billing cycle for other amounts,

including administrative fees and special claims will be negotiated with the initial PHA.

The ACOH will bill 100% of the housing assistance payment, 100% of special claims and 80% of the administrative fee (at the initial HA's rate) for each "portability" voucher leased as of the first day of the month.

The ACOH will notify the initial HA of changes in subsidy amounts and will expect the initial HA to notify the ACOH of changes in the administrative fee amount to be billed.

Chapter 14

CONTRACT TERMINATIONS

[24 CFR 982.311, 24 CFR 982.314]

14.1 INTRODUCTION: The Housing Assistance Payments contract (hereinafter HAP contract) is the contract between the owner and the ACOH which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the ACOH and the owner, and the policies and procedures for such terminations.

14.2 CONTRACT TERMINATION: [24 CFR 982.311] The term of the HAP contract is the same as the term of the lease. The contract between the owner and the ACOH may be terminated by the ACOH, the owner, or the tenant. No future subsidy payments on behalf of the family will be made by the ACOH to the owner after the month in which the contract is terminated. The owner must reimburse the ACOH for any subsidies paid by the ACOH for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the ACOH for vacancy loss under the provisions of certificate HAP contracts effective before October 2, 1995.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

14.3 TERMINATION BY THE FAMILY: MOVES: [24 CFR 982.314] Family termination of the lease must be in accordance with the terms of the lease.

14.4 TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310, 24 CFR 982.455]

A. Grounds for Termination: If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease. During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations. During the term of the lease the owner may only evict for:

1. Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;
2. Violations of Federal, State or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.

3. Other Good Cause: During the initial term of the lease, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do (see 24 CFR 982.310). Nonpayment of the rent by ACOH is not grounds for termination of the family. The family is not responsible for the ACOH’s share of the rent.

B. Evidence of Criminal Activity: The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity:

1. Regardless of arrest or conviction
2. Without satisfying the standard of proof used for a criminal conviction

C. Termination of Tenancy Decisions: If law and/or regulations governing termination of tenancy permit the owner to terminate the lease, but do not require the owner to terminate the lease, the owner may elect to continue the tenancy and decide whether to take the action. The owner must consider the following circumstances:

1. The seriousness of the offense
2. The effect on the community
3. The extent of participation by household members
4. The effect on uninvolved household members
5. The demand for assisted housing by families who will adhere to responsibilities
6. The extent to which leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action
7. The effect on the integrity of the program
8. When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:
 - a. Is no longer participating
 - b. Has successfully completed a supervised drug or alcohol rehab program
 - c. Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of (a) through (c) above.

D. Exclusion of Culpable Household Member: The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

E. Owner’s Procedures and Obligations at Termination: Actions of termination by the owner must be consistent with the fair housing and equal opportunities guidelines.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action.

The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

The ACOH requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for the ACOH's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun the eviction process and the family continues to reside in the unit, the ACOH must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The ACOH will continue housing assistance payments until the family moves or is evicted from the unit.

If the eviction action is finalized in court, the owner must provide the ACOH with the documentation, including notice of the execution of writ of possession.

The ACOH must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from the ACOH, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if the ACOH has no other grounds for termination of assistance, the ACOH may issue a new voucher so that the family can move with continued assistance.

14.5 TERMINATION OF THE CONTRACT BY ACOH: [24 CFR 982.404(a), 24 CFR 982.453, 24 CFR 982.454, 24 CFR 982.552(a)(3)]

A. General Terminations: The term of the HAP contract terminates at all of the following times: (1) when the lease terminates, (2) when the ACOH terminates program assistance for the family, and (3) when the owner has breached the HAP contract. See Chapter 16 "Owner Disapproval and Restriction."

The ACOH may also terminate the contract if:

1. The ACOH terminates assistance to the family.
2. The family is required to move from a unit when the subsidy is too big for the family size or the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.
3. Funding is no longer available under the ACC.

The contract will terminate automatically if 180 calendar days have passed since the last housing assistance payment to the owner.

B. Termination of Pre-merger Certificate HAPS: [24 CFR 982.502(d)]

The ACOH must terminate program assistance under any outstanding HAP contract for a regular tenancy under the pre-merger certificate program at the effective date of the second regular re-examination of family income and composition on or after the merger date. At such termination of assistance, the HAP contract will automatically terminate. The ACOH will give the owner and the family at least 120 days written notice of such termination. The ACOH will offer the family the opportunity for continued tenant-based assistance under the voucher program.

Any OFTO tenancy HAP contract entered into prior to the merger date will automatically be considered as a tenancy under the voucher program. Such tenancies will be subject to the requirements of the voucher program, including calculation of the housing assistance payment. See "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

C. Notice of Termination for Violations of Housing Quality Standards:

When the ACOH terminates the HAP contract under the violation of HQS space standards, the ACOH will provide the owner and family written notice of termination of the contract. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the ACOH gives such notice to the owner.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 5.902, 24 CFR 5.903, 24 CFR 5.905, 24 CFR 982.4, 24 982.54, 24 982.552, 24 CFR 982.553]

15.1 INTRODUCTION: The ACOH may deny or terminate assistance for a family because of the family's action or failure to act. The ACOH will provide families with a written description of the family obligations under the program, the grounds under which the ACOH can deny or terminate assistance, and the ACOH's informal hearing procedures. This chapter describes when the ACOH is required to deny or terminate assistance, the ACOH's policies for the denial of a new commitment of assistance, and the grounds for termination of assistance under an outstanding HAP contract.

15.2 DEFINITIONS:

- A. **Covered person**, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.
- B. **Drug** means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- C. **Drug-related criminal activity** means 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.
- D. **"Engaged in or engaging in"** violent criminal activity means any act by an applicant or participant or household member which involved 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, which resulted in the arrest and/or conviction of the applicant, participant, or household member.
- E. **Guest**, for purposes of this chapter and 24 CFR part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.
- F. **Household**, for the purposes of 24 CFR Part 982 and this chapter, means the family and ACOH-approved live-in aide.
- G. **Other person under the tenant's control**, for the purposes of the definition of *covered person* and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the

premises solely for legitimate commercial purposes is not *under the tenant's control*.

- H. *Violent criminal activity*** means 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.

15.3 GROUNDINGS FOR DENIAL/TERMINATION: [24 CFR 982.54, 24 CFR 982.552, 24 CFR 982.553]

A. Form of Denial/Termination

1. Denial of assistance for an applicant may include any or all of the following:
 - a. ACOH denial of placement on the ACOH waiting list
 - b. ACOH denial or withdrawal of a voucher
 - c. ACOH refusal to enter into a HAP contract or approve a tenancy
 - d. ACOH refusal to process or provide assistance under portability procedures
2. Termination of assistance for a participant may include any or all of the following:
 - a. ACOH refusal to enter into a HAP contract or approve a tenancy
 - b. ACOH termination of housing assistance payments under an outstanding HAP contract
 - c. ACOH refusal to process or provide assistance under portability procedures

B. Mandatory Denial and Termination: [24 CFR 982.54 (d), 24 CFR 982.552(b), 24 CFR 982.553(a), 24 CFR 982.553(b)]

1. Contractual Limit on Time without Assistance: The ACOH must deny assistance to applicants, and terminate assistance for participants if the family is under a HAP contract (depending on the HAP contract used) and 180 days or 12 months have elapsed, since the ACOH's last housing assistance payment was made. (See Chapter 14 "Contract Terminations")

2. Manufacturing of Methamphetamine in Federally Assisted Housing: The ACOH must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

3. Use of Illegal Drugs: The ACOH shall deny admission to the program for applicants, and terminate assistance for program participants if the ACOH determines that any household member is currently engaging in illegal use of a drug. See Section, 15.4, for the

ACOH's established standards.

4. Threat to Public Health and Safety: The ACOH shall deny admission to the program for applicants, and terminate assistance for program participants if the ACOH determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. See Section, 15.4, for the ACOH's established standards.

5. Registered Sex Offenders: The ACOH must deny admission to an applicant if the ACOH determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. See Section 15.4 for the ACOH's established standards regarding criminal background investigation and determining whether a member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

6. Serious and Repeated Violations: The ACOH must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

7. Failure to Fill Out Required Consent Forms: The ACOH must deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information.

8. Non-Eligibility Due to Immigration Status: The ACOH must deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.

C. Grounds for Discretionary Denial or Termination of Assistance: [24 CFR 982.552(c)]

The ACOH will deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

1. Serious or Repeated Violations of Family Obligations: If any family member violates any serious family obligations or engages in repeated violations of these obligations under the program as listed in 24 CFR 982.551.

2. Drug Related Criminal Activity: If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any drug-related criminal activity.

3. Violent Criminal Activity: If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any violent criminal activity.

4. Recent Serious Lease Violations: If any member of the family has been evicted from federally assisted housing for a serious lease violation in the last three years.

5. Prior, Recent Lease Terminations for the Family: If any HA has ever terminated assistance under the program for any member of the family.

6. Fraud, Bribery, or Criminal Acts: If any member of the family commits fraud, bribery or any other corrupt criminal acts in connection with any federal housing program.

7. Unpaid Debt to Housing Agencies: If the family currently owes rent or other amounts to the ACOH or to another HA in connection with Section 8 or public housing assistance under the 1937 Act.

8. Threats/Violence Towards ACOH Personnel: The family has engaged in or threatened abusive or violent behavior toward ACOH personnel.

a. "Abusive or violent behavior towards ACOH personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

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

c. Actual physical abuse or violence will always be cause for termination.

9. Substance Abuse that Interferes with Health, Safety and Quiet Enjoyment: Any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents or any member of the family commits drug-related criminal activity, or violent criminal activity. (See Section 15.4 of this chapter and 24 CFR 982.553 of the regulations). Refer also to "Chapter 2, Eligibility for Admission" "Other Criteria for Admission" section for further information.

D. Efforts to prevent Denial/ Termination In Cases of Disability: If denial or termination is based upon behavior resulting from a disability, the ACOH will delay the denial or termination in order to determine if there is an accommodation that would negate the behavior resulting from the disability.

15.4 SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY: HUD no longer uses the term "One-Strike" so this section, formerly known as "One-Strike" Policy, has been re-titled.

A. Purpose: All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the ACOH to fully endorse and implement a policy designed to:

1. Help create and maintain a safe and drug-free community
2. Keep our program participants free from threats to their personal

and family safety

3. Help maintain an environment where children can live safely, learn and grow up to be productive citizens
4. Assist families in their vocational/educational goals in the pursuit of self-sufficiency

B. Administration: All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate privacy rights or to discriminate on the basis of race, color, nationality, religion, familial status, disability, sex, sexual orientation or any other legally protected groups.

To the maximum extent possible, the ACOH will involve other community and governmental entities in the promotion and enforcement of this policy.

C. Screening of Applicants: In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and 24 CFR Part 5, Subpart J, the ACOH will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior.

Such screening will apply to any member of the household who is 18 years of age or older.

D. Standard for Violations: The ACOH may deny participation in the program to applicants and terminate assistance to participants in cases where the ACOH determines there is reasonable cause to believe one of the following:

1. that a household member is illegally using a drug or
2. that a person abuses substances, including alcohol, in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents. ACOH will investigate to determine that there is a pattern of illegal use of any controlled substances and/or a pattern of alcohol abuse.

E. Drug Related and Violent Criminal Activity:

Ineligibility for Admission if Evicted for Drug-Related Activity: Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Section 8 program for a 3-year period beginning on the date of such eviction.

However, the household may be admitted if, after considering the individual circumstances of the household, the ACOH determines that:

1. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the ACOH. OR
2. The circumstances leading to eviction no longer exist for reasons such as:

- a. The criminal household member has died.
- b. The criminal household member is imprisoned.

HUD regulations at 24 CFR 982.553(a)(1)(i) allow the ACOH to admit a household in less than 3 years following eviction for drug-related criminal activity under the conditions above. The ACOH is not required to adopt the exceptions above, but choose to do so. The ACOH reserves the right to use their sole discretion in determining whether to waive denial in each individual case and nothing in this policy shall be construed as a requirement to waive denial.

F. Denial of Assistance for Sex Offenders: The ACOH will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, the ACOH will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement.

G. Notice of Denial of Assistance: In any case where the ACOH denies assistance to a family, the ACOH must give the family written notice which states:

1. The reason(s) for the denial
2. The family's right, if they disagree, to request an Informal Hearing
3. The date by which a request for an informal hearing must be received by the ACOH.

If the ACOH proposes to deny assistance for criminal activity as shown by a criminal record, the ACOH will provide the subject of the record a copy of the criminal record.

H. Termination of Assistance for Participants:

1. **Termination of Assistance for Drug-related Criminal Activity or Violent Criminal Activity:** Under the family obligations listed at 24 CFR 982.551, the members of the household must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

HUD regulations at 24 CFR 982.553(b) require the ACOH to establish standards for termination of assistance when this family obligation is violated. The ACOH has established the following standards for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity.

Assistance may be terminated for participants who have been:

- a. Arrested, convicted or evicted from a unit assisted under any Federally assisted housing program for drug-related or violent

criminal activity during participation in the program, and within one year prior to the date of the notice to terminate assistance.

- b. If any member of the household violates the family obligations by engaging in drug-related or violent criminal activity, the ACOH will terminate assistance.

In appropriate cases, the ACOH may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the ACOH may consider individual circumstances with the advice of Juvenile Court officials.

The ACOH will waive the requirement regarding drug-related criminal activity if the person demonstrates successful completion of a credible, rehabilitation program approved by the ACOH, or the circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household.

2. Terminating Assistance for Alcohol Abuse by Household

Members: Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the ACOH determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

In appropriate cases, the ACOH may permit the family to continue receiving assistance provided that household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the ACOH may consider individual circumstances with the advice of Juvenile Court officials.

I. Notice of Termination of Assistance: In any case where the ACOH decides to terminate assistance to the family, the ACOH must give the family written notice which states:

1. The reason(s) for the proposed termination;
2. The effective date of the proposed termination;
3. The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance;
4. The date by which a request for an informal hearing must be received by the ACOH; and
5. If the ACOH proposes to terminate assistance for criminal activity

held
by the

as shown by a criminal record, the ACOH will provide the subject of the record a copy of the criminal record.

The ACOH will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

J. Required Evidence: The ACOH may terminate assistance for criminal activity by a household member, as described in this chapter, if the ACOH determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may include various sources, such as information from police and/or court records; testimony from neighbors, when combined with other factual evidence; and other credible evidence, such as documentation of drug raids or arrest warrants.

K. Confidentiality of Criminal Records: The ACOH will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

If the family's assistance is denied or terminated, the criminal record information shall be shredded immediately upon completion of the review or hearing procedures and when a final decision has been made.

15.5 FAMILY OBLIGATIONS: [24 CFR 982.551]

- A.** The family must supply any information that the ACOH or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.
- B.** The family must supply any information requested by the ACOH or HUD for use in a regularly scheduled reexamination or interim re-examination of family income and composition in accordance with HUD requirements.
- C.** The family must disclose and verify Social Security numbers (as provided by 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.
- D.** All information supplied by the family must be true and complete.
- E.** The family is responsible for an HQS breach caused by the family as

described in 24 CFR 982.404(b).

F. The family must allow the ACOH to inspect the unit at reasonable times and after reasonable notice.

G. The family may not commit any serious or repeated violations of the lease.

H. The family must notify the owner and, at the same time, notify the ACOH before the family moves out of the unit or terminates the lease upon notice to the owner.

I. The family must promptly give the ACOH a copy of any owner eviction notice.

J. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

K. The composition of the assisted family residing in the unit must be approved by the ACOH. The family must promptly inform the ACOH of the birth, adoption or court-awarded custody of a child. The family must request ACOH approval to add any other family member as an occupant of the unit.

L. The family must promptly notify the ACOH if any family member no longer resides in the unit.

M. If the ACOH has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or ACOH approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

N. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

O. The family must not sublease or sublet the unit.

P. The family must not assign the lease or transfer the unit.

Q. The family must supply any information or certification requested by the ACOH to verify that the family is living in the unit, or relating to family absence from the unit, including any ACOH-requested information or certification on the purposes of family absences. The family must cooperate with the ACOH for this purpose. The family must promptly notify the ACOH of absence from the unit.

R. The family must not own or have any interest in the unit.

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

T. The household members may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

U. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

V. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

15.6 Housing Authority Discretion: [24 CFR 982.552(c)] In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the ACOH has discretion to consider all of the circumstances in each case, including the seriousness of the case. The ACOH will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The ACOH may also review the family's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The ACOH may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The ACOH may permit the other members of a family to continue in the program.

A. Enforcing Family Obligations:

1. **Explanations and Terms:** The term "promptly" when used with the family obligations always means "within 30 days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.
2. **HQS Breach:** The inspector will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the inspector.
3. **Lease Violations:** The following types of criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:
 - a. If the owner terminates tenancy through court action for serious or repeated violation of the lease.
 - b. If there are police reports, neighborhood complaints or other third party information of serious or repeated violations, as verified by the ACOH.
 - c. Nonpayment of rent is considered a serious violation of the lease.
4. **Notification of Eviction:** If the family requests assistance to move and they did not notify the ACOH of an eviction within 30 days of receiving the Notice of Lease Termination, the move may be denied.
5. **Proposed Additions to the Family:** The ACOH will deny a family's

request to add additional family members who would have been denied if applying on their own (see pages 15-3ff.).

- 6. Family Member Moves Out:** Families are required to notify the ACOH if any family member leaves the assisted household. When the family notifies the ACOH, they must furnish the following information:
 - a. The date the family member moved out;
 - b. A statement as to whether the family member is temporarily or permanently absent.
- 7. Limitation on Profit-Making Activity in Unit:** If the ACOH determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the ACOH determines the business is not legal, it will be considered a serious program violation.
- 8. Interest in Unit:** The owner may not reside in the assisted unit regardless of whether (s)he is a member of the assisted family, unless the family owns the mobile home and rents the pad.
- 9. Fraud:** In each case, the ACOH will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

15.7 PROCEDURES FOR NON-CITIZENS: [24 CFR 5.514, 24 CFR 5.516, 24 CFR 5.518]

A. Denial or Termination due to Ineligible Immigrant Status: Applicant or participant families in which there are no members that qualify as U.S. citizens or as eligible immigrants are ineligible for assistance and must have their assistance terminated. The ACOH must offer the family an opportunity for a hearing. (See Chapter 2 "Eligibility for Admission" on Citizenship/Eligible Immigration Status.)

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

B. Procedure for Denial or Termination: If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the ACOH either after the INS appeal or in lieu of the INS appeal.

After the ACOH has made a determination of ineligibility, the family will be notified of the determination, the reasons for this decision, and informed of the option for prorated assistance (if applicable).

15.8 ZERO (\$0) ASSISTANCE TENANCIES: For contracts effective on or after October 2, 1995, the ACOH has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180-day timeframe, an owner's rent increase or a decrease in the Total Tenant

Payment causes the family to be eligible for a housing assistance payment, the ACOH will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

15.9 OPTION NOT TO TERMINATE FOR MISREPRESENTATION: [24 CFR 982.551, 982.552(c)] If the family has misrepresented any facts that caused the ACOH to overpay assistance, the ACOH, in their sole discretion, may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement.

15.10 MISREPRESENTATION IN COLLUSION WITH OWNER: [24 CFR 982.551, 24 CFR 982.552 (c)] If the family intentionally, willingly, and/or knowingly commits fraud or is involved in any other illegal scheme with the owner, the ACOH will deny or terminate assistance.

In making this determination, the ACOH may carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

15.11 MISSED APPOINTMENTS AND DEADLINES: [24 CFR 982.551, 982.552 (c)] It is a Family Obligation to supply information, documentation, and certifications as needed for the ACOH to fulfill its responsibilities. The ACOH schedules appointments and sets deadlines in order to obtain the required information.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the ACOH, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the ACOH to inspect a unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

A. Types of Appointments: Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

1. Eligibility for Admissions
2. Verification Procedures
3. Certificate/Voucher Issuance and Briefings
4. Housing Quality Standards and Inspections
5. Re-certifications
6. Appeals

B. Acceptable Reasons for Missed Appointments: Acceptable reasons for missing appointments or failing to provide information by deadlines are:

1. Medical emergency
2. Incarceration
3. Family emergency

C. Procedure when Appointments are Missed or Information is not

Provided: For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation.

After issuance of the termination notice, if the family offers to and successfully corrects the breach within the time allowed to request a hearing and/or within a time agreed upon by ACOH the termination may be rescinded. Decisions to rescind the breach are subject to this policy and in the sole-discretion of ACOH.

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 24 CFR 982.306, 24 CFR 982.453]

16.1 INTRODUCTION: It is ACOH's policy to recruit owners to participate in the Voucher program. The ACOH will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout ACOH's jurisdiction. The regulations define when the ACOH must disallow an owner's participation in the program, and they provide the ACOH discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

16.2 DISAPPROVAL OF OWNER: [24 CFR 982.306, 24 CFR 982.54(d)(8)] An owner does not have a specific right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The ACOH will disapprove the owner for the following reasons:

- A.** HUD or another local HA has informed the ACOH that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- B.** HUD has informed the ACOH that the federal government has instituted a pending administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements.
- C.** HUD has informed the ACOH that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
- D.** Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The ACOH will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.
- E.** In cases where the owner and tenant bear the same last name, the ACOH may, at its discretion, require the family and/or the owner to certify whether they are related to each other in any way.
- F.** The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- G.** The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- H.** The owner has engaged in drug-related criminal activity or any violent criminal activity.

I. The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.

16.3 OWNER RESTRICTIONS AND PENALTIES: [24 CFR 982.453] If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the ACOH will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The ACOH may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner, the ACOH will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

16.4 CHANGE IN OWNERSHIP: A change in ownership does not require execution of a new contract.

As a party to the contract, the ACOH may approve the assignment of the HAP contract at the old owner's request. The ACOH may deny approval of assignment of the contract, for any of the reasons listed in Section A of this chapter.

The ACOH will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the Employee Identification Number or Social Security number of the new owner.

If the new owner does not want an assignment of the contract, the ACOH will terminate the HAP contract with the old owner.

Chapter 17

OWNER OR FAMILY DEBTS TO THE ACOH

[24 CFR 982.552]

17.1 INTRODUCTION: This chapter describes the ACOH's policies on the recovery of funds, which have been overpaid, to families and/or to owners. It describes ACOH's methods for collection of monies and the guidelines for different types of debts. It is the ACOH's policy to provide adequate notice and information to owners and families, and to communicate program rules clearly. ACOH will make every effort to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the ACOH's claim that the debt is owed. The file must further contain written documentation on the method of calculation, in a format available for review by any interested parties, including but not limited to the owner and family receiving assistance.

When families or owners owe money to the ACOH, the ACOH will make every effort to collect it. The ACOH will use a variety of collections tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Payment agreements
- Abatements
- Reductions in HAP to owner

17.2 PAYMENT AGREEMENT FOR FAMILIES: [24 CFR 982.552 (c)(v-vii)] A Payment Agreement as used in this Plan is a document entered into between the ACOH and a person who owes a debt to the ACOH. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the ACOH upon default of the agreement.

There are some circumstances in which the ACOH will not enter into a payment agreement.

- If the family already has a Payment Agreement in place
- If the ACOH determines that the family committed program fraud.
- If the ACOH determines that the debt is over \$3000

17.3 DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION: [24 CFR 982.163] Families who owe money to the ACOH due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Payment Agreement Section of this Chapter.

17.4 DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP: If the family owes the ACOH money for rent arrears incurred during the minimum rent period, the ACOH will calculate the total amount owed and divide it by no more than 12 months to arrive at a reasonable payback schedule to be paid on a monthly basis. This amount

shall be in addition to the family's regular monthly rent payment to the owner. The family will be required to pay the increased amount until the arrears are paid in full to the ACOH.

A. Default for Inability to Pay: If the family goes into default on the payment agreement for back rent incurred during a minimum rent period, the ACOH will first reevaluate the family's financial situation and determine whether the family has the ability to pay the increased rent amount. If not, ACOH will make an effort to restructure the existing payment agreement.

B. Default Despite Inability to Pay: If a family in default is determined to be financially able to pay the increased rent amount ACOH shall provide the family with the option to pay all past due amounts or forfeit their voucher.

17.5 OWNER DEBTS TO THE ACOH: [24 CFR 982.453(b)] If the ACOH determines that the owner has retained housing assistance or claimed payments the owner is not entitled to, the ACOH may reclaim the amounts from future housing assistance payments or claim payments owed the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the ACOH will pursue collection of the debt.

Chapter 18

COMPLAINTS AND APPEALS

18.1 INTRODUCTION: Families who disagree with an action, decision, or inaction of ACOH may access the informal hearing procedures outlined under HUD regulations and articulated in this chapter. This chapter describes the policies, procedures and standards to be used when families disagree with a ACOH decision. The procedures and requirements are explained for the following: (1) preference denial meetings, (2) informal reviews; and (3) hearings. It is the policy of ACOH to ensure that all families have access to all procedures and are free to pursue all remedies available under applicable Federal, State and local law.

Complaints by owners, employees and the public shall be handled on a case by case basis in accordance with the following: ACOH's administrative plan, standard policies and procedures such as the personnel policy, and any applicable federal, state or local laws.

18.2 COMPLAINTS TO ACOH: ACOH will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. ACOH does require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

ACOH hearing procedures will be provided to families in the briefing packet. Complaints are divided by ACOH into the following categories:

A. Complaints from families: If a family disagrees with an action or inaction of ACOH or owner, then any subsequent complaints shall be referred to the ACOH staff. If a complaint is not resolved, it will be referred to the Rental Assistance Coordinator.

B. Complaints from owners: If an owner disagrees with an action or inaction of the ACOH or a family, then any subsequent complaints from owners will be referred to the Rental Assistance Coordinator.

C. Complaints from staff: If a staff person reports an owner or family for violating program rules, then the complaint will be referred to the Rental Assistance Coordinator.

D. Complaints from the general public: If ACOH receives any complaints or referrals from persons in the community concerning a program family or an owner, these complaints will be referred to the Rental Assistance Coordinator. If a complaint is not resolved, it will be referred to The Chief of Housing.

18.3 PREFERENCE DENIALS: When ACOH denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with ACOH staff to discuss the reasons for the denial and to dispute ACOH decision.

*The person who conducts the meeting will be either the Rental Assistance Coordinator or his/her designee from the ACOH Staff.

18.4 INFORMAL REVIEW PROCEDURES FOR APPLICANTS: [24 CFR 982.54(d)(12), 24 CFR 982.554]

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. When an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

A. Notice of Ineligibility: When ACOH determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

1. The reason(s) they are ineligible;
2. The procedure for requesting a review where the applicant does not agree with the decision; and
3. The time limit for requesting a review.

B. Denial for Criminal Activity: When denying admission for criminal activity, as shown by a criminal record, ACOH will provide the subject of the record with a copy of the criminal record which established the basis for the denial.

C. Informal Review Available: ACOH must provide applicants with the opportunity for an informal review of decisions denying:

1. A placement on ACOH waiting list
2. Issuance of a voucher
3. Participation in the program
4. Assistance under portability procedures
5. Refusal to extend or suspend a voucher.

D. Informal Review Not Required: Informal reviews for applicants are not required for established policies and procedures and ACOH determinations such as:

1. Discretionary administrative determinations by the ACOH;
2. General policy issues or class grievances;
3. A determination of the family unit size under ACOH subsidy standards;
4. Refusal to extend or suspend a voucher;
5. A ACOH determination not to grant approval of the tenancy;
6. Determination that a unit is not in compliance with HQS;
7. Determination that a unit is not in accordance with HQS, due to family size or composition.

E. Procedure for Review: A request for an informal review must be received in writing within 10 calendar days of ACOH denial notification. The written request must be received in the Housing Office by the close of the th 10 day to be considered timely. The informal review will be scheduled within 0 calendar days from the date the request is received by

ACOH, unless good cause exists for an extension.

The informal review may not be conducted by the person who made or approved the decision under review or by their subordinates. The review may be conducted by:

1. a staff person in the Housing Office and/or
2. the Chief of Housing

The applicant will be given the option of presenting oral or written objections to the decision. Both ACOH and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A notice of the review findings will be provided in writing to the applicant within 7 business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation and a copy of the final decision will be retained in the family's file.

18.5.1 HEARING AND APPEAL PROVISIONS: [24 CFR 982.555(a-f), 24 CFR 982.54(d)(13)]

A. Notification of Unfavorable Decision: When ACOH makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. ACOH will give the family prompt notice that includes all of the following:

1. The proposed action or decision of the ACOH and the basis for it;
2. The date the proposed action or decision will take place;
3. The procedures for requesting a hearing if the family disputes the action or decision;
4. The time limit for requesting the hearing and to whom the hearing request should be addressed.
5. When terminating assistance for criminal activity as shown by a criminal record, ACOH will provide the subject of the record upon which the decision to terminate was based.
6. A copy of the ACOH's informal hearing procedures.

B. When Informal Hearing Required: ACOH must provide participants with the opportunity for an informal hearing for decisions related to any of the following ACOH determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment;
2. Appropriate utility allowance;
3. Family unit size determinations under ACOH subsidy standards;
4. Determinations to terminate assistance for any reason;
5. Determination to terminate a family's FSS contract, withhold

supportive services, or propose forfeiture of the family's escrow account;

6. Determination to pay an owner's claim for vacancy loss;
7. The ACOH must always provide the opportunity for an informal hearing before termination of assistance.

C. **When Informal Hearing Not Required:** Informal hearings are not required for established policies and procedures and ACOH determinations such as:

1. Discretionary administrative determinations by ACOH;
2. General policy issues or class grievances;
3. Establishment of ACOH schedule of utility allowances for families in the program;
4. ACOH determination that an assisted unit is not in compliance with HQS (CRHA must provide a hearing for family breach of HQS because that is a family obligation determination);
5. ACOH determination to exercise any right or remedy against the owner under a HAP contract.

D. **Notification of Hearing:** It is ACOH objective to resolve disputes at the lowest possible level, and to make every effort to avoid severe remedies. However, if this is not possible, ACOH will ensure that applicants and participants will receive all of the protections and rights afforded under Federal, State and local law. When ACOH receives a request for an informal hearing, a hearing shall be scheduled within 14 days. The notification for an informal hearing will contain the following:

1. The date and time of the hearing;
2. The location of the hearing;
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense;
4. The right to view any documents or evidence in the possession of ACOH upon which ACOH based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing;
5. A notice to the family that ACOH will request a copy of any documents or evidence the family will use at the hearing.

Any document not made available by ACOH upon request may not be relied upon by ACOH in the hearing. ACOH has a right to a continuance or to exclude any of the complainant's documents, if those documents are not made available to ACOH prior to the hearing.

E. **ACOH Hearing Procedures:** If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact ACOH within 24 hours. This contact period shall be extended so that a family is able to make this contact during business hours. The tolling period

will not run during weekends and/or holidays or when ACOH is not open for business. ACOH will reschedule the hearing only if the family can show good cause for the failure to appear.

1. Procedural Rights for Families: Families have the right to all of the following:

- a. To present written or oral objections to ACOH determination.
- b. To examine the documents in the file which are the basis for the ACOH action, and all documents submitted to the Hearing Officer;
- c. To copy any relevant documents at their expense;
- d. To present any information or witnesses pertinent to the issue of the hearing;
- e. To request that ACOH staff be available or present at the hearing to answer questions pertinent to the case; and
- f. To be represented by legal counsel, an advocate, or other designated representative at their own expense.

The family shall never be allowed to remove the file from the ACOH office.

2. ACOH Procedural Rights: In addition to other rights contained in this Chapter, ACOH has a right to all of the following:

- a. To present evidence and any information pertinent to the issue of the hearing;
- b. To be notified if the family intends to be represented by legal counsel, an advocate, or another party;
- c. To have notice of the witnesses to be called;
- d. To examine and copy any documents to be used by the family prior to the hearing;
- e. To have its attorney present; and
- f. To have staff persons and other witnesses familiar with the case present.

3. Appointment of Hearing Officer: The informal hearing shall be conducted by a Hearing Officer appointed by ACOH. ACOH appoints hearing officers who are public officials or private mediators not directly involved in the day to day administration of the program.

4. Hearings: The hearing shall address only those issues identified as eligible for a hearing. Evidence presented at the hearing may be considered without regard to the rules of evidence applicable to judicial proceedings in the jurisdiction.

Upon request by the opposing party, only those documents that were provided to the other party before the hearing may be presented at the proceeding. The term "Documents" includes records and regulations.

The Hearing Officer will determine whether the action, inaction, or decision of ACOH is legal in accordance with HUD regulations and this Administrative Plan. The hearing officer will only consider the evidence and testimony provided at the hearing and any agreed upon record. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to ACOH and the family within 7 business days and shall include the following:

- a. A clear summary of the decision and reasons for the decision;
- b. If the decision involves money owed, the amount owed and documentation of the calculation of monies owed;
- c. The date the decision goes into effect.

5. Limits on a Hearing Officer's Decision: the following types of hearing decisions do not bind ACOH:

- a. Matters in which ACOH is not required to provide an opportunity for a hearing;
- b. Decisions which conflict with or contradict HUD regulations or requirements;
- c. Decisions which conflict with or contradict Federal, State or local laws;
- d. Decisions which exceed the authority of the person conducting the hearing.

18.6 HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS": [24 CFR Part 5, Subpart E] In accordance with the Quality Housing and Work Responsibility Act of 1998, CRHA must comply with the non-citizen requirements (24 CFR Part 5, Subpart E).

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family already receiving aid may not be terminated or denied while ACOH hearing is pending. However, assistance to an applicant may be delayed pending ACOH hearing.

B. INS Determination of Ineligibility: If a family member claims to be an eligible immigrant but ACOH finds that the INS SAVE system and/or a manual search do not verify the claim, then ACOH shall notify the applicant or participant within ten calendar days. ACOH shall inform the applicant of their right to appeal to the INS within thirty days and/or to request an informal hearing with the ACOH

If the family appeals to the INS, they must give ACOH a copy of the appeal and proof of mailing. If the family fails to do so, then ACOH may proceed to deny or terminate assistance. The time period to request an appeal may be extended by the ACOH for good cause.

The request for a ACOH hearing must be made within fourteen business days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen business days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members, ACOH will:

1. Deny the applicant family;
2. Defer termination if the family is a participant and qualifies for deferral;
3. Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, ACOH will offer to prorate assistance or give the family the option to remove the ineligible members.

C. Other Complaints Related to Eligibility: If any family member fails to provide documentation or certification of legal status as required by CFR regulations, that member is treated as ineligible. If all family members fail to provide documentation, then the family will be denied or terminated for failure to provide the required information.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing under the rules for terminations for fraud.

18.7 MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES: [24 CFR 982.204, 24 CFR 982.552(c)] When applicants are denied placement on the waiting list, or ACOH is terminating assistance, the family will be informed that a disability may be considered as a mitigating circumstance during the informal review process.

Chapter 19

SPECIAL HOUSING TYPES

[24 CFR 982.601]

19.1 INTRODUCTION: The ACOH does not currently set aside program funding for special housing types. A family may choose whether to rent housing as available and necessary as a reasonable accommodation that qualifies as a special housing type or to rent other eligible housing in accordance with requirements of the program.

19.2 SINGLE ROOM OCCUPANCY: [24 CFR 982.602 et seq.] ACOH will use a separate lease and housing assistance payment contract for each assisted person residing in a single room occupancy (hereinafter SRO). [24 CFR 982.603]. Only a single person can reside in a SRO.

A. SRO Rent and Housing Assistance Payment: [24 CFR 982.604]

1. Pre-merger Regular Certificate Program: The payment standard for SRO housing is 75 percent of the zero bedroom FMR.

2. Voucher Program: The ACOH SRO payment standard is 75 percent of the zero bedroom payment standard. For a person residing in an exception area, the payment standard is 75 percent of the HUD-approved zero bedroom exception payment standard. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

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

B. Housing Quality Standards: ACOH will ensure that all SRO units approved for the program are in compliance with all of the Housing Quality Standards for SRO's as regulated in 24 CFR 982.605 and all other sections referenced therein.

ACOH will enforce any local code standards for SRO housing that do not conflict with 24 CFR 982.605.

19.3 CONGREGATE HOUSING: [24 CFR 982.606 et seq.]

A. Who May Reside in Congregate Housing: An elderly person or a person with disabilities may reside in a congregate housing unit.

ACOH may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The ACOH will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by

persons with disabilities.

- B. Congregate Housing Lease and HAP Contract:** [24 CFR 982.607] For congregate housing there will be a separate lease and HAP contract for each assisted family.

Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is ACOH's zero-bedroom payment standard.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

- C. Housing Quality Standards:** ACOH will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609 and all others sections referenced therein.

ACOH will enforce any local code standards for Congregate housing that do not conflict with 24 CFR 982.609.

19.4 GROUP HOMES [24 CFR 982.610 et. seq.; See also 24 CFR 982.612]

- A. State Approval of Group Home/ Who May Reside in Group Home:** A group home must be licensed, certified, or otherwise approved in writing by the State as a group home for the elderly or persons with disability.

An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the ACOH, a live-in aide may reside with a person with disabilities. The ACOH must approve a live-in aid as a reasonable accommodation so that the program is readily accessible and usable for the disabled. Except for an approved live in aide, all residents of a group home must be elderly persons or persons with a disability.

ACOH will not approve assistance for a person to live in a group home if the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

- B. Group Home Lease and HAP Contract:** [24 CFR 982.611] There will be a separate HAP contract and lease for each assisted person living in a group home.

For a group home the term "pro-rate portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home.

- C. Group Home Rent and HAP Contract:** [24 CFR 982.613] The rent to the group homeowner for an assisted person may not exceed the pro-rata share of the reasonable rent for the entire group home.

The reasonable rent for a group home is determined in accordance with 24 CFR 982.507. In determining reasonable rent, the ACOH will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

- D. Maximum Subsidy:** Unless there is a live-in aide, the family unit size is zero or one bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the following:

1. the ACOH payment standard for the family unit size; or
2. the pro-rata portion of the ACOH payment standard for the group home size.

E. Utility Allowance: The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

F. Housing Quality Standards: ACOH will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614 and all others sections referenced therein.

ACOH will enforce any local code standards for Group Homes that do not conflict with 24 CFR 982.614.

19.5 SHARED HOUSING: [24 CFR 982.615 et seq.]

A. Occupancy: An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

ACOH may approve a live-in aide to reside with a family in order to care for a person with a disability. The ACOH shall approve any necessary and acceptable live-in aide as a reasonable accommodation so that the program is readily accessible/useable by persons with disabilities.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the ACOH. However, housing assistance may not be paid on behalf of an owner. The ACOH will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

B. Rent and HAP Contract: For shared housing, the term “pro-rata portion” means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of

bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five-bedroom unit, the ratio would be 3/5.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the “Owner Rents, Rent Reasonableness, and Payment Standards” chapter.

- C. **Maximum Subsidy:** For a family that resides in a shared housing unit the payment standard is the lower of the following: (1) the payment standard amount for the family unit size or (2) the pro-rata portion of the ACOH payment standard amount for the shared housing unit size.

If the ACOH approves a live-in aide, the live-in aid will be counted in determining the family unit size.

- D. **Utility Allowance:** The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

- E. **Housing Quality Standards:** ACOH will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618 and all others sections referenced therein.

ACOH will also enforce any local code standards that do not conflict with 24 CFR 982.614.

19.6 COOPERATIVE HOUSING: [24 CFR 982.619]

- A. **Assistance in Cooperative Housing:** The ACOH will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The ACOH will not approve assistance for a family in cooperative housing until the ACOH has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member’s interest in a cooperative unit (such as a sale of the resident’s share in a cooperative corporation).

- B. **Rent to Owners:** The reasonable rent in cooperative housing is determined in accordance with the “Owner Rents, Rent Reasonableness, and Payment Standards” chapter. For cooperative housing, the rent to an owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member’s share of the cooperatives debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge as determined in “Owner Rents, Rent Reasonableness, and Payment Standards” chapter.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owners. The housing assistance payment will be determined in accordance with the guidelines in “Owner Rents, Rent Reasonableness, and Payment Standards” chapter.

The ACOH may approve a live-in aide to reside with the family to care for a person with disabilities. The ACOH will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible/useable to persons with disabilities. If the ACOH approves a live-in aide, the live-in aide will be counted when determining the family unit size.

- C. **Housing Quality Standards:** The ACOH will ensure that all cooperative housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in the “Housing Quality Standards and Inspections” chapter, regulated by 24 CFR 982.401 and all others sections referenced therein.

ACOH will also enforce any local code standards that do not conflict with 24 CFR 982.401.

19.7 MANUFACTURED HOMES: [24 CFR 982.620 et seq.] The ACOH will permit a family to lease a manufactured home and space with assistance. The ACOH will provide assistance for a family that owns the manufactured home and leases only the space.

The ACOH shall approve a live-in aide to reside with and care for a person with disabilities where the live in aide is necessary and appropriate as a reasonable accommodation so that the program is accessible/useable by persons with disabilities. If the ACOH approves a live-in aide, the live-in aide must be counted when determining the family unit size.

- A. **Housing Quality Standards:** [24 CFR 982.621] A manufactured home must meet all the HQS requirements outlined in the “Housing Quality Standards and Inspections” chapter and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

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

B. **Manufactured Home Space Rental:** [24 CFR 982.622] Rent to an owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space.

Rent to an owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

- C. Reasonable Rent for Manufactured Home Space:** During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the ACOH.

The ACOH will not approve a lease for a manufactured home space until the ACOH has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the ACOH will re-determine that the rent is reasonable.

The ACOH will determine whether the rent to an owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The ACOH will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the ACOH, the owner of the manufactured home space certifies that the rent to the owner for the space is not more than the rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park or elsewhere. If requested by the ACOH, the owner must provide the ACOH information on rents for other manufactured home space.

- D. Housing Assistance Payments for Manufactured Home Space:** [24 CFR 982.623]

HUD will determine the FMR for a manufactured home space.

For the Regular Tenancy Program, the initial rent on a manufactured home space may not exceed the published FMR for a manufactured home space.

“Cost for Manufactured home space” means the sum of: the amortization cost, the utility allowance, and the rent to an owner for the manufactured home space.

The amortization cost may include debt service to amortize costs (other than furniture costs) included in the purchase price of the manufactured home. The debt service includes the payment for principal and interest on the loan. The debt service amount will be reduced by 15 percent to exclude debt service to amortize the cost of furniture, unless the ACOH determines that furniture was not included in the purchase price.

Any debt service due to refinancing the manufactured home after purchase of the home is not included in the amortization costs.

The ACOH will not approve as part of the monthly amortization payment, set-up charges included in the debt service incurred by a family that relocates its home.

The ACOH will not include as part of the monthly amortization payment, set-

up charges incurred before the family became an assisted family, if monthly payments are still being made to amortize such charges.

E. HAP for the Voucher Tenancy: There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40 percent of the published FMR for a two-bedroom unit.

F. Subsidy Calculation for the Voucher Program: During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of:

1. The payment standard minus the total tenant payment; or
2. The rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.
3. The space rent is the sum of the following as determined by the ACOH:
 - a. Rent to owner for the manufactured home space;
 - b. Owner maintenance and management charges for the space;
 - c. The utility allowance for tenant paid utilities.

F. Utility Allowance Schedule for Manufactured Home Space Rental:

[24 CFR 982.624] The ACOH will establish utility allowances for manufactured home space. For the first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space already in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

Chapter 20

PROJECT-BASED VOUCHERS (24 CFR 983)

20.1 Introduction: The County of Albemarle considers the use of project-based vouchers as critical in supporting housing opportunities that address one or more of the following objectives;

- i. Deconcentrating poverty
- ii. Preserving and Expanding housing availability
- iii. Supporting nonprofit housing initiatives (owner and partnership ventures)
- iv. Long-term affordability commitments
- v. Supporting special populations (elderly, disabled, homeless)
- vi. Ensuring financial viability of housing

20.2 Program Authority: The County of Albemarle operates its project-based voucher program as a component of its rental assistance activities in compliance with regulations found in 24 CFR 983 and 24 CFR 982 as applicable. Funding for the program comes from the annual budget authority for the Housing Choice Voucher Program.

20.3 Program Policy: Beginning with the approval of its Annual Plan in 2004, the County of Albemarle considered two options for the use of project-based vouchers.

1. preservation of existing affordable units likely to be lost due to sale, refinance, and/or opt-out of federal contracts by the owner(s); and,
2. creation (construction) of new affordable rental housing when a nonprofit agency is a partner and has executed a first right-of-refusal that may be exercised within 15 years or, if a tax credit deal, owner has agreed to an extended compliance period of 30 years.

The County is adding a third option which allows for proposals from existing housing units to be considered for project-based vouchers. Existing units must, in addition to addressing one or more of the objectives listed in **20.1**, meet HQS standards at the time of selection and received other funding which requires rent and occupancy restrictions.

Criteria to be used for evaluating requests includes, but may not be limited to, population to be served, services/amenities provided that are appropriate to population to be served, and for new construction and rehabilitation, the likelihood that the project will not be developed without local financial support and/or on-going subsidies. Projects may also be selected if they have received federal, state, or local housing assistance within three years prior to selection.

In addition, to a competitive selection process (criteria above), the County will also use non-competitive selection process in the following situations:

- a. The project meets at least four of the objectives AND has received funding in the past three years from another competitive funding source (ex. HOME and LIHTC) AND there are no other existing housing units in the County that are known to meet this eligibility; and
- b. When the project is considered regional in nature, will be built or exists in another locality, and the other locality has selected the project in accordance with its criteria.

20.4 Consistency with Annual Plan and Deconcentration Goals: The County of Albemarle will implement the project-based voucher program in accordance with 24 CFR 983.57(b)(1) and establishes the policy that any new project-based assistance agreements will be limited to units in census tracts where poverty rates are less than 20%. In case of exceptions, HUD approval will be required.

The County of Albemarle will also implement the project-based voucher program in accordance with the goals and strategies outlined in the agency's Five-Year and Annual Plan. The County will report on the use of project-based vouchers in its Five-Year and Annual Plan, as applicable, and amend the Plan as necessary when activity warrants. Should the County choose to use the project-based voucher program as outlined in this chapter prior to HUD's approval of the Five-Year or Annual Plan, or a revision thereof, the County will update the Plan following regulations related to Plan amendments.

20.5 Tenant Eligibility and Waiting List Procedures: The County of Albemarle will advertise the opening of a waiting list for project-based vouchers and maintain that list making referrals to property management. The County will also notify applicants on the Housing Choice Voucher list as to the availability of project-based vouchers. This notice may be in the same form available to the general public rather than direct notification. The County may not take applications for or maintain a waiting list if there are fewer than ten (10) project-based vouchers committed to a project AND the project is restricted to certain populations based on the nature of the housing units (ex. Elderly/disabled and homeless populations). In this case, the property management will screen and refer eligible applicants to the County for processing.

Any applicant for rental assistance is apprised of all application opportunities and may select one or more projects with project-based vouchers in addition to applying for tenant-based vouchers when applications for that program are being accepted.

Chapter 21 SPECIAL PROGRAMS

- 21.1 FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM): 24 CFR 962 and 98** This program is established by a HA to promote self-sufficiency of assisted families, including the provision of supportive services. The ACOH is not required to implement or maintain this program under current guidelines and practices, but in an effort to promote and enhance self-sufficiency. The ACOH may opt to implement and develop practices, which reinforces the concepts providing assistance to families seeking self-sufficiency.
- A. PURPOSE, SCOPE AND APPLICABILITY:** The purpose of the ACOH Family Self-Sufficiency (FSS) Program is to promote the development of local strategies to coordinate the use of public and Indian housing assistance and housing assistance under the Section 8 rental voucher program with public and private resources to enable families eligible to receive assistance under these programs to achieve economic independence and self-sufficiency.
 - B. PROGRAM OBJECTIVE:** The objective of the FSS program is to reduce the dependency of low-income families on welfare assistance and on Section 8, public of Indian housing assistance, or any Federal, State, or local rent or homeownership subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling, and other forms of social assistance, while living in assisted housing, so that they may obtain the education, employment, and business and social skills necessary to achieve self sufficiency as defined in 24 CFR 984.103.
 - C. PREFERENCE SELECTION:** A HA has the option of giving a selection preference to it's Section 8 eligible families as defined in [24 CFR 984.103], who have one or more family members currently enrolled in an FSS related service program or on the waiting list for such a program.

Chapter 22

Violence Against Women Reauthorization Action of 2005 (VAWA)

Notification to Applicants and Participants Regarding Protections Under The Violence Against Women Reauthorization Act Of 2005 (VAWA)

ACOH will post information regarding VAWA in its offices. It will also make the information readily available to anyone who requests it.

Notification to Participants

ACOH will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination. ACOH will also include in all termination notices a statement explaining the protection against termination provided by VAWA.

Transfers

ACOH will encourage landlords to consider a verified threat of physical harm or criminal activity related to domestic violence as a high priority transfer request or a reason for early lease termination and a resulting move.

Prohibition Against Terminating Participation of Victims of Domestic Violence, Dating Violence, and Stalking

Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a participant's household or any guest or other person under the participant's control, shall not be cause for termination of the voucher, if the participant or immediate family member of the participant's family is the victim or threatened victim of that abuse. Incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed by ACOH either as serious or repeated violations of the program requirements by the victim of such violence or as good cause for terminating the participation of the victim of such violence.

Victim Notification

If ACOH has reason to suspect that the program termination notice might place a victim of domestic violence at risk, it will attempt to deliver the notice by hand or other means to the victim.

Victim Documentation

When a participant family is facing program termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, ACOH will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of ACOH's written request or must request an extension within that time frame. ACOH may, at its discretion, extend the deadline for 10 business days.

ACOH reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

If the individual provides the requested documentation as required, ACOH will reconsider its termination decision in light of the documentation. If the individual does not provide the requested documentation as required, ACOH will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP.

Terminating a Perpetrator of Domestic Violence

ACOH may terminate the participation of a family member if ACOH determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the program assistance of the remaining, nonculpable family members. In making its decision, ACOH will consider all credible evidence or other documentation of abuse submitted to ACOH by the victim. If ACOH does terminate the participation of the culpable family member, it will do so in accordance with the policies in its Administrative Plan.

ACOH Confidentiality Requirements

ACOH will keep confidential any information that it receives from a victim unless (a) ACOH has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information. If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, ACOH will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

Chapter 23
PROGRAM INTEGRITY

23.1 INTRODUCTION: The US Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

ACOH is committed to assuring that the proper level of benefits is paid to all participating families and that housing resources reach only income-eligible families so that program integrity can be maintained.

ACOH will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This Chapter outlines ACOH's policies for the prevention, detection and investigation of program abuse and fraud.

23.2 CONFLICT OF INTEREST

A. Neither the PHA nor any of its contactors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

1. Any present or former member or officer of the PHA (except a participant commissioner)
2. Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
3. Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
4. Any member of the Congress of the United States

B. Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the PHA and HUD.

23.3 CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD:

Under no circumstances will ACOH undertake an inquiry or an audit of a participating family arbitrarily. ACOH's expectation is that participating families will comply with HUD requirements, provisions of the certificate or voucher, and other program rules. ACOH staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, ACOH has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to

monitor participants and owners for compliance and, when indicators of possible abuse come to ACOH's attention, to investigate such claims.

ACOH will initiate an investigation of a participating family only in the event of one or more of the following circumstances;

- A. **Referrals, Complaints , or Tips:** ACOH will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.
- B. **Internal File Review:** A follow-up will be made if ACOH staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, the ACOH's knowledge of the family, or is discrepant with statements made by the family.
- C. **Verification of Documentation:** A follow-up will be made if ACOH receives independent verification or documentation which conflicts with representations in the family file (such as public record information or credit bureau reports, reports from other agencies).

23.4 STEPS ACOH WILL TAKE TO PREVENT PROGRAM ABUSE AND

FRUAD: ACOH staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

- A. **Things you Should Know:** This program integrity bulletin (created by HUD's Inspector General) is available on request to all applicants to promote understanding of program rules, and to clarify ACOH's expectations for cooperation and compliance.
- B. **Resident Counseling:** ACOH will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.
- C. **Review and Explanation of Forms:** Staff will explain all required forms and review the contents of all (re) certification documents prior to signature.
- D. **Use of Instructive Signs and Warnings:** Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse

23.5 STEPS ACOH WILL TAKE TO DETECT PROGRAM ABUSE AND

FRAUD: ACOH will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

A. **Quality Control File Reviews:** Prior to initial certification, and at the completion of all subsequent recertifications, 10% of files will be reviewed. Such reviews shall include, but are not limited to:

1. Assurance that verification of all income and deductions is present
2. Changes in reported Social Security Numbers or dates of birth
3. Authenticity of file documents
4. Ratio between reported income and expenditures
5. Review of signatures for consistency with previously signed file documents
6. All forms are correctly dated and signed

B. **Observation:** ACOH staff will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income. Observations will be documented in the family's file.

Staff may review public Record Bulletins.

C. **State Wage Data Record Keepers:** Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

23.6 ACOH HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND

FRAUD: ACOH staff will encourage all participating families to report suspected abuse to the Comprehensive Housing Counselor. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The above designated staff member will not follow up on allegations that are vague or otherwise non-specific. They will only review allegations that contain one or more independently verifiable facts.

A. **File Review:** An internal file review will be conducted to determine if the subject of the allegation is a client of ACOH and, if so, to determine whether or not the information reported ACOH's been previously disclosed by the family. It will then be determined if ACOH is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

B. **Conclusion of Review :** if at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file date, and the facts are independently verifiable, a further investigation may be initiated to determine if the allegation is true or false.

23.7 HOW ACOH WILL INVESTIGATE ALLEGATIONS OF ABUSE AND

FRAUD: If ACOH determines that an allegation of referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the Chief of

Housing to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, ACOH will secure the written authorization from the program participant for the release of information.

A. Employers and Ex-Employers: Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

B. Neighbors/Witnesses: Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to ACOH's review.

C. Other Agencies: Investigators, caseworkers or representatives of other benefit agencies may be contacted.

D. Public Records: If relevant, ACOH will review public records. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, credit bureau reports, voter registration, judgments, court or police records, state wage records, utility records and postal records.

E. Interviews with Head of Household or Family Members: ACOH will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the ACOH office. A high standard of courtesy and professionalism will be maintained by ACOH staff person who conducts such interviews. Under no circumstances will the management tolerate inflammatory language, accusation, or any unprofessional conduct or language. If possible, an additional staff person will attend such interviews.

23.8 PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS

OBTAINED BY ACOH: Documents and other evidence obtained by ACOH during the course of an investigation will be considered "work product" and will either be kept in the participants file, or in a separate "work file". In either case, the participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among ACOH staff unless they are involved in the process or have information which may assist in the investigation.

23.9 CONCLUSION OF ACOH'S INVESTIGATIVE REVIEW: At the conclusion of the investigative review, the reviewer will report the findings to the Executive Director or designee. It will then be determined whether a violation of ACOH has occurred, a violation has not occurred, or if the facts are inconclusive.

23.10 Evaluation of the Findings: if it is determined that a program violation has occurred, ACOH will review the facts to determine:

- A. The type of violation (procedural, non-compliance, fraud).
- B. Whether the violation was intentional or unintentional
- C. What amount of money (if any) is owed by the family
- D. If the family is eligible for continued occupancy.

23.11 ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN

DOCUMENTED: Once a program violation has been documented, ACOH will propose the most appropriate remedy based upon the type and severity of the violation.

A. Procedural Non-Compliance: This category applies when the family “fails to” observe a procedure of requirement of ACOH, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family.

Examples of non compliance violations are:

1. Failure to appear at a pre-scheduled appointment
2. Failure to return verification in time period specified by ACOH

B. Warning Notice to the Family: In cases of non-compliance violations, a notice will be sent to the family which contains the following;

1. A description of the non compliance and the procedure, policy or obligation which was violated.
2. The date by which the violation must be corrected, or the procedure complied with.
3. The action which will be taken by ACOH if the procedure or obligation is not complied with by the date specified by ACOH.
4. The consequences of repeated (similar) violations.

C. Procedural Non-compliance-Overpaid Assistance: When the family owes money to ACOH for failure to report changes in income or assets, ACOH will issue a Notification of Overpayment of Assistance.

This Notice will contain the following:

1. A description of the violation and the date(s)
2. Any amounts owed to ACOH
3. A 10 day response period
4. The right to disagree and to request an informal hearing with instructions for the request of such hearing

If a participant fails to comply with ACOH’s notice, and a family obligation has been violated, ACOH will initiate termination of assistance.

When a family complies with ACOH’s notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated. The staff person will complete a Participant Counseling Report, give one copy to the family and retain a copy of the family’s file.

D. Intentional Misrepresentations: when a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by ACOH, the ACOH will evaluate whether or not:

1. The participant had knowledge that his/her actions were wrong, and
2. The participant willfully violated the family obligations or the law

Knowledge that the action or inaction was wrong: This will be evaluated by determining if the participant was made aware of

program requirements and prohibitions. The participant's signature on various certification, briefing certificate, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrong doing.

The participant willfully violated the law: Any of the following circumstances will be considered adequate to demonstrate willful intent:

1. An admission by the participant of the misrepresentation
2. That the act was done repeatedly
3. If a false name or Social Security Number was used
4. If there were admissions to others of the illegal action or omission
5. That the participant omitted material facts that were known to him/her (e.g., employment of self or other household member).
6. That the participant falsified, forged, or altered documents.
7. That the participant uttered and certified to statements at an interim (re) determination which were later independently verified to be false.

E. THE CASE CONFERENCE FOR SERIOUS VIOLATIONS AND MISREPRESENTATIONS: When ACOH's staff established that material misrepresentation have occurred, a Case Conference will be scheduled with the family representative and the ACOH staff person who is most knowledgeable about the circumstances of the case.

This conference will take place prior to any proposed action by ACOH. The purpose of such conference is to review the information and evidence obtained by ACOH with the participant, and to provide the participant an opportunity to explain any document findings which conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by ACOH. The family will be given 10 days to furnish any mitigating evidence.

A secondary purpose of the Participant Conference is to assist ACOH in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, ACOH will consider:

1. The duration of the violation and number of false statements

2. The family's ability to understand the rules
3. The family's willingness to cooperate and to accept responsibility for his/her actions
4. The amount of money involved
5. The family's past history
6. Whether or not criminal intent has been established
7. The number of false statements

F. NOTIFICATION TO PARTICIPANT OF PROPOSED ACTION:

The ACOH will notify the family of the proposed action no later than 5 business days after the case conference.