

## Part Six: Continued Occupancy

### I. Overview:

**Refer to:**

- A. Annual Reexaminations:** At least once a year, the PHA must reexamine a family's eligibility for continued occupancy, their compliance with provisions of the Dwelling Lease, the amount of the Tenant Rent, the amount of the utility allowance, and the appropriateness of the size of their unit. For families who have chosen to pay the flat rent, the income reexamination and verification must be conducted at least once every three years.
- B. Interim Reexaminations:** If there are changes in a family's circumstances between the dates for an annual reexamination, the amount of Tenant Rent may change.

24 CFR

§960.209(a)

§966.4(c)

§960.209(b)

### C. Non-Economic Requirements:

1. In determining eligibility for continued occupancy, the PHA shall evaluate each tenant in accordance with the non-economic qualification requirements for admission stated in Part 1, Section V., of these Admission and Occupancy Policies, applying those requirements to the tenant's history in public housing.
2. If the PHA determines that a tenant's or any household member's habits and practices may be expected to have a detrimental effect on other tenants, or on the development environment, it shall notify the tenant of the family's ineligibility for continued occupancy.
3. Adult residents who are not exempt from volunteer community service (Part Six, Section VII.) must show that they have complied with that requirement to be eligible for continued occupancy.
4. Victim of Domestic Violence: The PHA will not terminate a tenant's lease based on serious or repeated lease violations or criminal activity related to domestic violence, dating violence or stalking, where the tenant is the victim of the domestic violence, dating violence or stalking. The PHA may require a tenant who is or claims to be a victim of domestic violence to provide a signed certification or other documentation. (See Appendix J, VAWA Policy)

- 5. The PHA may deny or terminate assistance to the family member who is or claims to be a victim of such domestic violence if
  - a. The tenant fails or refuses to sign a certification or provide other documentation of the domestic violence within 14 business days after being asked to do so; or
  - b. There is an actual and imminent threat to other tenants, PHA staff or persons providing service to the property if the tenant is not evicted or terminated from assistance.
- 6. Bifurcation of Leases: The PHA may split a lease to remove a household member who engages in criminal acts of physical violence against family members or others.  
(See Appendix J, VAWA Policy)

**II. Annual Reexaminations**

**A. Timing of Reexaminations:**

- 1. **Initial Reexamination:** The initial reexamination for each tenant family will occur according to the schedule for the development in which they reside and may occur less than twelve months after admission. §5.617(a)
- 2. **Special Scheduling:** At the time of admission or any scheduled reexamination, the PHA may fix the date of the next reexamination as any date within the reexamination period as the family’s circumstances may dictate.
- 3. **Transfer Reexaminations:** Transfers will not require a full reexamination for continued occupancy.

**B. Requirements for Annual Reexaminations:** The PHA will examine all eligibility factors in making determinations, including income, assets, family composition, and the family’s compliance with lease requirements. §5.617

- 1. **Application for Continued Occupancy:** Once a year, the family must complete a written Application for Continued Occupancy, commonly referred to as an “ACO”, signed by the head of the family or the spouse.

2. **Accurate Statements:** Tenants must provide accurate statements that will enable the PHA to make an eligibility determination.
3. **Required Use of Enterprise Income Verification System (EIV).** The PHA will use HUD’s online EIV system at each annual recertification, in compliance with all related HUD guidance, to reduce administrative and subsidy payment errors. 24 CFR §5.233(a)(2)(ii)
4. **Verification Assistance:** Tenants must assist with the verification of necessary information and are required to furnish proof of their statements when requested by the PHA.
  - a. **Required Releases:** All members of the household 18 years and older must sign a HUD-approved release which authorizes any depository or private source of income, or any federal, state or local agency, to furnish or release necessary information. If sufficient verification for some or all income sources is obtained through HUD’s online UIV/EIV system or through acceptable documents that are generated by a third party, but are in the possession of and provided by the applicant, the applicant will not be required to sign release forms for those income sources.
  - b. **Direct Documentation:** The family may also be required to submit other documentation directly to the PHA.
5. **Necessary Documentation:** Information or documentation shall be determined to be necessary if it is required for purposes of determining or auditing the following:
  - a. A family's eligibility to continue in occupancy;
  - b. For determining the family's Adjusted Income or Total Tenant Payment; or
  - c. A family’s eligibility for unit size.
  - d. For verifying related information.
6. **Use of Confidential Information/Data Practices:** Information that is obtained directly from tenants, or from those persons authorized by tenants, will be used or disclosed only for purposes relating directly to the administration of the Public Housing Program. All information that is “private data on individuals” under the Minnesota Government Data Practices Act (Minn. Stat. Sec. 13.01 and following) will be handled in compliance with that law. Information obtained from HUD’s

online UIV/EIV systems will be used, stored and disposed of in compliance with HUD requirements.

**C. Required Verifications:**

1. **Social Security Numbers:** Tenants must provide their Social Security number (SSN) and valid Social Security card (or other acceptable documentation) for themselves and all other household members unless one of the exceptions stated in HUD regulations applies. §5.216; PIH 2010-3

Citizens and lawfully present noncitizens who state that they have not been assigned a SSN by the SSA, should make such declaration in writing and under penalties of perjury. The documentation must be disclosed in the tenant file.

2. **Penalties for Failure to Disclose Social Security Number and/or Provide Required Documentation.**

- a. The PHA must terminate the tenancy of residents (the entire household) if each member of the household who is required to disclose his or her SSN and provide documentation does not do so.
- b. However, if the family is otherwise eligible for continued occupancy in public housing, the PHA may, at its discretion, defer the family's termination and provide the family an opportunity to comply with the requirement for not more than 60 days if the PHA determines, that:
  - i. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not reasonably be foreseen and were outside the control of the family; and
  - ii. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation by the deadline.
- c. If the family is unable to comply with the requirements by the specified deadline, the PHA must terminate the entire family's tenancy.

2. **Family Composition:** A certification from the Head of Household or spouse must be provided that lists all the members who are currently living in the unit. This will generally be sufficient for verification of family composition; however, the PHA reserves the right to request additional

verification.

3. **Income:**

- a. All earned and unearned income must be verified through HUD's online UIV/EIV systems at the time of annual reexamination.
- b. When verification through EIV is not possible, the PHA will verify income in the same manner as for applicants. See Part 1, Section F. of these Policies.

4. **Assets:** If the total value of reported assets is \$3000 or more, their value must be verified in the same manner as applicants' income. See Part 1, Section F. of these Policies.

5. **No Income:** The absence of income will be verified through third-party sources where possible. Participants reporting no income will be required to sign a statement and a corresponding release form certifying that they are receiving no income.

6. **Verification of Disability:** For those tenants claiming a disability status, but who are not receiving Social Security Disability (SSD) benefits or Supplemental Social Security Income (SSI) benefits, a doctor's or other qualified person's certification as to the degree, and possible length of such disability will be required.

### III. Interim Reexaminations

**A. Required Use of Enterprise Income Verification System (EIV).** §960.209(b)  
The PHA is required to use HUD's online EIV system at each §966.4(c)  
interim recertification, in compliance with all related HUD  
guidance, to reduce administrative and subsidy payment errors.

**B. Special Reexaminations:** The PHA may conduct reexaminations more frequently than once a year due to special family circumstances or changes in program regulations, which may affect the Total Tenant Payment. The family's eligibility for continued occupancy will only be re-determined during an annual or specially scheduled reexamination.

**C. Unusual Income Situations:** The PHA will initiate more frequent reexaminations under the following circumstances:

- 1. Adults with **zero income** must have their incomes reexamined at intervals no less than 30 days and no more than 90 days.

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2. Adults with **income that cannot be projected with reasonable accuracy** due to its temporary or sporadic nature will have more frequent reexaminations:
  - a. They will have their incomes reexamined at intervals of no less than 30 days and no more than 90 days.
  - b. The PHA will set a schedule for reexaminations that is appropriate to the family's circumstances.
3. If a family has a pattern of seasonal or irregular income that results in reasonably consistent annual income from year to year, as shown by data in HUD's Enterprise Income Verification (EIV) online data system or similar reliable data source(s), the PHA will calculate the family's rent based on that historical data.
4. A family with a pattern of seasonal income, that does not result in reasonably consistent annual income from year to year, has two options at the time of their annual reexamination:
  - a. They may choose to have their rent based on a year-round average, using records of recent years' income patterns; **or**
  - b. They may choose to have their rent based upon their lower monthly income during the off-season and have their rent adjusted during the period of seasonal employment;
  - c. A family may not change their choice between annual certifications.

**D. Other Interim Reexaminations:** Between annual reexaminations, if there are changes in a family's income, household composition, or eligible deductions, an interim reexamination may be conducted. §960.209(b)  
§966.4(c)(1)

1. **Family Requests for Reexaminations:** Families paying income-based rent have the choice of requesting an interim reexamination under the following circumstances:
  - a. Families choosing rent payment based on adjusted income:
    - i.) Receive a decrease in income which would result in a rent decrease; or
    - ii.) Have an increase in these eligible allowances or deductions which would result in a rent decrease:

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- (a) An increase in expenses for the care of a child or handicapped member,
  - (b) An increase in permissible deductions and/or expenses due to a change in HUD regulations, or
  - (c) An increase in the number of dependents, or
  - (d) For elderly families only, an increase in medical expenses.
- b. Families choosing flat rent payment option:
- i.) A financial hardship situation has occurred as described in Part Three, Section II.B.
  - ii.) If a household chooses to change from the flat rent option to adjusted income rent calculation, the household may not return to flat rent until the next regular reexamination date for that development.
2. **Circumstances Requiring an Interim Reexamination:** An interim reexamination must be performed when any one of the following circumstances occurs. In these circumstances, all changes in household status and income will be considered in determining Total Tenant Payment:
- a. **Household Changes.** New persons may not be added to the household without the PHA's prior approval (other than the birth or adoption of a child). Tenants must report all changes in household composition within 10 days of the occurrence involving:
    - i.) Any addition of an adult member; or
    - ii.) The loss of an adult member,
    - iii.) The addition of a minor to the household (see Section VII. below and also Part 1. Section II.G. and H. and Part 7, Section III.F).
  - b. **Increased Income:** Families paying income-based rent (not flat rent) must report an increase in monthly gross household income of \$30 or more. The \$30 increase in monthly income is cumulative.
    - i.) One monthly increase of \$30 or more must be reported within 10 days after it is received for the first time.

§960.209(b)

§966.4(c)

§966.4(c)(1)

§966.4(a)(2)

ii.) If two or more increases occur during the period between annual reexaminations, and the increases together total \$30 a month of income that is likely to continue, the changes must be reported within 10 days of the increase that brought the total to the \$400 threshold.

c. **Change in Earnings Exclusion (Earned Income Disregard):** An interim reexamination must be conducted when the percentage of incremental earnings to be excluded under Part 1, Section III.B.9 or 10 changes from 100% to 50% after 12 months, and when the 50% disregard ends after 24 months.

d. **PHA Error:**

i.) When an error is made by the PHA at admission or reexamination, the tenant is encouraged to report the error to the PHA as soon as they become aware of it so an interim reexamination can be conducted.

ii.) No retroactive rent increase will be made against the family when the PHA has made an error.

#### IV. **Effective Date of Rent Changes**

§960.209

Once the Tenant Rent is established at the time of reexamination, the rate will remain in effect until the next reexamination, or until an Interim Rent Adjustment is made.

**A. Annual Reexaminations:** Increases in rent resulting from an annual reexamination will be effective according to the tenant's recertification date. Notice of rent increases will be given not less than thirty days prior to the effective date of the change. Rent decreases do not require advance notice.

**B. Special and Interim Reexaminations:**

1. Increases in rent resulting from interim redeterminations will be effective the first day of the second month following that month in which the change in status actually occurred.
2. Decreases in rent resulting from interim redeterminations will be effective the first day of the first month following that in which the tenant reported the change in status.

**C. Transfers:** See Part Seven. of these Admissions and Occupancy Policies for more information regarding transfer policies.

**V. Misrepresentation:** Any material misrepresentation by the tenant or failure by the tenant to provide complete information, during any reexamination or otherwise, may result in a determination of ineligibility for continued occupancy or a retroactive rent increase or a combination of both. The tenant will be notified in writing of such determination in accordance with Section VI. of this part.

## **VI. Notice To Ineligible Families**

- A. PHA Notice:** The PHA will give the tenant prompt written notice of a decision that the family has been determined to be ineligible for continued occupancy. The written notice will contain a brief statement of the reasons for the decision. §966.4(e)(8)
- B. Grievance Hearing:** The notice will state that if the tenant does not agree with the decision, the tenant may request a Grievance Hearing in accordance with the PHA’s Grievance Procedure. §966.4(e)(8)(ii)  
§966.4(e)(8)(i)  
(A)
- C. Delivery of Notice of Ineligibility:** §966.50
1. Notice shall be sufficient by delivery of a copy to the family in writing or by mailing it to the family at the last address contained in the PHA file, by first class mail, properly addressed, with postage prepaid.
  2. “Delivery of a copy” means handing it to the family or leaving it at the premises with a person of suitable age and discretion who lives there.

## **VII. Adding Members To A Household (Lease-ons)**

- A.** If one or more persons not living in public housing wish to be added to a lease and become members of a household currently living in public housing (“lease-on”), they must apply and meet the same eligibility requirements as other applicants. If the lease-on applicants are determined to be eligible and they can move into the household without exceeding the PHA’s occupancy standards, they may be admitted without regard to their position on the public housing waiting list. See also Part 1. Section II.G. and H. of these Policies.
- B. Social Security Numbers (SSN’s) for Lease-Ons.**
1. When a resident requests to add a new household member who is at least six years of age or under the age of six- and has an assigned SSN, the resident must disclose the assigned SSN and

provide the PHA with documentation. The new household member may not be added until the family provides the documentation.

2. When a resident requests to add a new household member to the family, who is under the age of six and does not have an assigned SSN, the resident must disclose the assigned SSN and provide the PHA with documentation within 90 calendar days of the child being added to the household.
3. If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA is required to grant the family an additional 90-day period to comply with the requirement, if the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family (for example, SSA delay, natural disaster, fire, death in the family, etc.).
4. If the family has not complied with the SSN disclosure and documentation requirements by the end of the time extension, the PHA must terminate the family's tenancy.

## **VIII. Continued Occupancy and Community Service**

24 CFR  
§960.600; PIH  
2003-17 (HA)

### **A. General:**

In order to be eligible for continued occupancy, each adult family member must either:

1. Contribute eight hours per month of community service (not including political activities) within the community in which the public housing development is located, or
2. Participate in an economic self-sufficiency program for eight hours each month.

### **B. Exemptions:**

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

1. Family members who are age 62 or older.
2. Family members who are blind or disabled and who certify that they are unable to comply with this service requirement because of their disability.
3. Family members who are the primary caregiver for someone who is blind or disabled and who certify that they are unable to

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- comply with this service requirement because of their caregiving responsibilities.
4. Family members engaged in work activity for at least 10 hours a week, which includes the following:
    - a. Unsubsidized Employment;
    - b. Subsidized private-sector employment;
    - c. Subsidized public-sector employment;
    - d. Work experience if sufficient private sector employment is not available;
    - e. On-the-job training;
    - f. Job-search and job-readiness assistance;
    - g. Community service programs; including;
    - h. Vocational educational training
    - i. Job-skills training;
    - j. Education, including GED, secondary school, post-secondary and vocational training; citizenship classes, ESL, adult basic education and similar activities;
    - k. Activities to remove barriers to employment, including treatment for chemical dependency or mental health issues, parenting education and similar activities;
    - l. Providing childcare services to an individual who is participating in a community service program;
    - m. Family members who are the primary caregiver for a child under the age of six.
  5. Family members who are exempt from work activity under Part A. Title IV. Of the Social Security Act or under any other state welfare program, including MFIP or any other welfare-to-work program.
  6. Family members receiving assistance under a state program funded under Part A. Title IV. of the Social Security Act, MFIP or any other state welfare program, including welfare-to-work and who are in compliance with that program.

**C. Notification of the Requirement:**

1. The PHA shall identify all adult family members who are apparently not exempt from the community service requirement.
2. The PHA shall notify all such family members of the community service requirement and of the categories of individuals who are exempt from the requirement. The notification will provide the opportunity for family members to claim and explain an exempt status. The PHA shall verify such claims.
3. The notification will advise families that their community service obligations will begin upon the effective date of their first annual reexamination on or after 10/1/99. For families paying a flat rent, the obligation begins on the date their annual reexamination would have been effective had an annual reexamination taken place. It will also advise them that failure to comply with the community service requirement will result in ineligibility for continued occupancy at the time of any subsequent annual reexamination.

**D. Volunteer Opportunities:**

1. Community service includes performing work or duties in the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, and/or increase the self-responsibility of the resident within the community.
2. An economic self-sufficiency program is one that is designed to encourage, assist, train or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include programs for job training, work placement, basic skills training, education, English proficiency, work fare, financial or household management, apprenticeship, and any program necessary to ready to participant to work (such as substance abuse or mental health treatment).
3. The PHA will coordinate with Resident Councils, social service agencies, local schools, and other public and private agencies in identifying a list of volunteer community service positions. Individual residents may suggest other volunteer community service options.

**E. The Process:**

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At the first annual (flat rents, too) reexamination on or after October 1, 1999, and each annual reexamination thereafter, the PHA will do the following:

1. Provide a list of volunteer opportunities to the family members.
2. Provide information about obtaining suitable volunteer positions.
3. Provide a volunteer timesheet to the family member.
4. Quarterly basis and/or Thirty (30) days before the family's next lease anniversary date, the PHA will determine whether each applicable adult family member is in compliance with the community service requirement.

### **F. Notification of Non-Compliance With Community Service Requirement:**

The PHA will notify any family found to be in non-compliance of the following:

1. The family member(s) has been determined to be in non-compliance;
2. That the determination is subject to the grievance procedure; and
3. That, unless the family member(s) enter into an agreement to comply, the lease will not be renewed or will be terminated.

### **G. Opportunity To Remedy Non-Compliance:**

1. Prior to the anniversary of the lease, the PHA will offer the family member(s) the opportunity to enter into an agreement to remedy past non-compliance with the community service requirement. The agreement shall state that the family member(s) agrees to enter into an economic self-sufficiency program or agrees to contribute to community service for as many hours as needed to comply with the requirement over the past 12-month period. The hours must be contributed over the 12-month period beginning with the date of the agreement and the tenant shall at the same time stay current with that year's community service requirement the first hours a tenant earns goes toward the current commitment until the current year's commitment is satisfied.
2. If any applicable family member does not accept the terms of

the agreement, does not fulfill their obligation to participate in an economic self-sufficiency program, or falls behind in their obligation under the agreement to perform community service by more than three (3) hours after three (3) months, the PHA shall take action to terminate the lease.

## **IX. Disclosure of Income Verification Information**

Sec. 508(d) of  
1998 Housing  
Act

- A. HUD will periodically verify income reported by PHA residents by comparing it with records maintained by other government agencies. HUD will notify the family if HUD finds an apparent discrepancy in reported income.
- B. If a family living in public housing receives information from HUD regarding their income, earnings, wages or unemployment compensation, obtained from HUD's income verification procedures, the family must report such information to the PHA within 10 working days of receiving it.