



Summary of Proposed Changes to the BHA's

Admissions and Continued Occupancy Policy (ACOP)

January 14, 2019

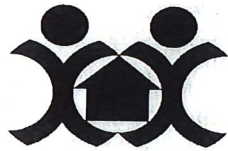
- Chapter 3 Section 3.1 page 21:
 - o Revise adding language to Preliminary application forms shall be available "...online through the Common Housing Application for Massachusetts Public Housing (CHAMP) website, ..."
- Chapter 4 Section 4.1.4 pages:29; 30; and 31
 - o Revise adding language regarding late appeal requests
- Chapter 4 Section 4.4.3.3 "Priority Applicants ... J Homelessness" page 44:
 - o Revise the homeless definition adding "...and rapid re-housing..."
- Chapter 8 Section 8.1.1.1 page 131
 - o Revise the Residual Tenancy language changing who may apply for Residual Tenancy status.
- Chapter 8 Section 8.1.1.4 page 132
 - o Revise the Residual Tenancy language adding "Chapter 5" to clarify which Chapter of the Admissions and Continued Occupancy Policy (ACOP) is used to determine the eligibility requirements for Applicants.
- Chapter 8 Section 8.2 page132
 - o Removed the word "not"
- Chapter 8 Section 8.4. page 132
 - o Removed limitations of policy language and added clarification language of who is to be excluded "...under eviction ..."
- Chapter 8 Section 8.5 page 133
 - o Revise adding language to clarify the Residual Tenancy Rights of Appeal.
- Chapter 9 Section 9.2 pages :137; 139; 140; 141; 142 and 148
 - o Removed language regarding in General Policy: "...flat rent, updated annually but income information will be only updated every three years... "

- Removed language regarding "...if head, co-head or spouse who had previously income reports zero income..."
- Revise adding language "...except in cases where the resident is subject to the over-income policy..."
- Removed language "...Annual Recertifications who chose flat rents will be asked to update their family information every year..."
- Revise adding language regarding Income-Based Rent
- Revise adding 9.2.1 Over Income Policy to meet HUD requirements.
- Revise adding 9.2.2 Income Validation Tool to verification requirements.
- Revise adding 9.2.3 Income Validation Tool Report System

- Chapter 11 page 179

- Revise adding definition for "Rapid Re-Housing Assistance"

BOSTON HOUSING AUTHORITY



ADMISSIONS AND CONTINUED OCCUPANCY POLICY

FOR THE PUBLIC HOUSING PROGRAMS

January 2019 draft for Approval

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Đây là một tài liệu quan trọng. Nếu quý vị cần phiên dịch, vui lòng hãy gọi cho số điện thoại bên dưới hoặc đến các văn phòng của chúng tôi.

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Tani was dhokomentt muhiim ah. Haddii and rabto tarjumaad, fadlan' wac lambaraka

hoos ku qoran ama imow xafiisadayada.

هذه وثيقة مهمة، وإذا كنت في حاجة إلى ترجمة فورية، يرجى الاتصال على رقم الهاتف المذكور أدناه أو أن تتفضل بالمجيء إلى مكتبنا. این یک سند بسیار مهم است. اگر به ترجمه آن نیاز دارید، لطفاً با شماره تلفن زیر تماس بگیرید یا به دفتر ما مراجعه کنید.

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CHAPTER 3: PRELIMINARY APPLICATIONS AND PROCESSING

3.1 Application Forms

Preliminary application forms shall be available at the Boston Housing Authority's Central Office located at 52 Chauncy Street, Boston; in its Housing Service Center, located at 56 Chauncy Street, Boston, on the BHA's web-site, online through the Common Housing Application for Massachusetts Public Housing (CHAMP) website, and at other locations, as determined by the Authority. Applications may also be available by mail and may be downloaded from the BHA's web-site at www.bostonhousing.org. A preliminary application will be accepted from anyone who wishes to apply provided that: the Waiting List for the development(s) in which they are interested is open.

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3.2 Development Choice(s)

The BHA maintains separate waiting lists for each of its public housing developments. Applicants may choose to apply for any or all of the developments for which they meet the minimum threshold requirements (See Section 5.1.2). Applicants may add or remove developments choices at any time prior to entering the final eligibility screening process except for reasonable accommodation and/or extenuating circumstances which will be reviewed on a case-by-case basis. Once the applicant is contacted by the BHA to schedule the personal interview appointment no changes in development choice(s) shall be accepted. Failure to schedule the personal interview appointment or complete the screening process for one of the developments of choice shall result in the withdrawal from all BHA public housing waiting lists.

Single individuals may elect to be placed either on the studio waiting list of a development(s) of choice or on the one-bedroom waiting list of a development(s) of choice.

Note: An unborn child shall be counted as a person in determining apartment size for admission purposes only. Therefore, a single individual if pregnant does not qualify to elect a studio or one-bedroom waiting list(s).

Some BHA studio waiting lists have a shorter waiting period to near the top of the waiting list. Therefore, as a result the Applicant may be contacted sooner to begin their final eligibility screening process. Applicants who elect studio waiting list(s) and are housed in a studio apartment, shall have the option to apply for a Special Circumstances Transfer to move to a one-bedroom apartment at a development of choice if:

- a) Has resided in the studio apartment at least for two years; and
- b) Is a Resident in good standing. No waivers of this requirement shall be approved.

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- c. Advise the Applicant that if s/he or a Household Member has a disability, or is a victim of domestic or dating violence or sexual assault or stalking not previously disclosed that the disclosure of such condition or situation would initiate the consideration of Mitigating Circumstances and/or Reasonable Accommodation.
- d. Advise the applicant of his/her right to contest Applicant Background Check and Eviction Report information or CORI information in accordance with Federal and State law if that is a basis for determination of Ineligibility.
- e. Provide a description of BHA's Informal Hearing process and advise Applicants that they have a right to be represented by an attorney or other individual at the informal hearing, review the contents of their file in advance of the hearing, the right to submit additional documents and evidence at the hearing, the right to request a reasonable accommodation and the right, after receiving a decision, to request reconsideration.
- f. Explain the rights of an Applicant to a state aided program to request a review of the decision by the Massachusetts Department of Housing and Community Development within twenty-one (21) calendar days of the initial decision or after a decision on reconsideration.

4.1.4 Applicant Appeals – Informal Hearings

1. Right to an Informal Hearing

All Applicants who are determined Ineligible for admission, issued a Notice of Withdrawal, denied Priority status or Preference(s) or denied Reasonable Accommodation or Good Cause by the BHA will be sent a notice that:

- a. Informs the Applicant of the reason(s) for Ineligibility, withdrawal or denial of Priority status or Preference(s) or denial of Reasonable Accommodation or Good Cause;
- b. Advises the Applicant of his/her right to contest the decision in an informal hearing provided a request for a hearing is received within 20 calendar days of the date the Notice of Adverse Action is issued. Such request must be in writing and must state clearly the basis for requesting the informal hearing and be sent to the address provided on the notice. The BHA will grant a request for a hearing when the applicant submits a late request, but submits evidence of compelling circumstances, such as a health condition or domestic violence, dating violence, sexual assault, or stalking, that prevented the applicant from requesting a hearing within twenty days or if documents the need for a reasonable accommodation.

- c. Advises the Applicant of his/her right to contest Applicant Background Check and Eviction Report information and/or CORI information in accordance with Federal and/or State law if that is the basis for determination of Ineligibility;
- d. Advises the Applicant that if s/he has a disability or is a victim of domestic or dating violence or sexual assault or stalking, not previously disclosed, that the disclosure of such condition or situation could lead to the consideration of Mitigating Circumstances and/or a reasonable accommodation, if it is related to the disability or the domestic or dating violence or sexual assault or stalking situation. Advises the Applicant that if s/he or a Household Member requests Mitigating Circumstances and/or reasonable accommodation at the time of or after requesting an informal hearing, the decision regarding the Mitigating Circumstances and/or accommodation may be remanded to the Occupancy Department or it may be made by the hearing officer.
- e. Provides a description of BHA's informal hearing process and advises Applicants that they have the right to be represented by an attorney or other individual at the informal hearing, review the contents of their file in advance of the hearing, the right to submit additional documents and evidence and to testify at the hearing, the right to request reconsideration and for Applicants to a state-aided program, the right to request a review of the decision by the Massachusetts Department of Housing and Community Development.

2. Scheduling the Informal Hearing

- a) Upon receipt of the Applicant's written request, staff in the BHA's Grievance and Appeals Department shall schedule an informal hearing. The hearing shall be scheduled within a 30-day period following the receipt of the Applicant's request for an informal hearing unless the applicant requests it to be postponed as a "reasonable accommodation" or for "good cause" see 760 CMR 5.13(1)(d), Late requests will be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period

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A "Notice of Informal Hearing" shall be sent by the BHA's Grievance and Appeals Department to the Applicant's address of record listing the date, time and place of the hearing. The notice shall also restate the Applicant's rights to present evidence and testify, review their file, request a reasonable accommodation or interpreter and be represented by an attorney or other individual at the hearing. The hearing shall be held at a convenient time and at an accessible location for the Applicant and the BHA. If an Applicant requests a reasonable accommodation

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regarding the Informal Hearing procedures at the time of or after requesting an informal hearing, the decision regarding the accommodation will be made by the Grievance and Appeals Department staff.

b) *Default.* The BHA will uphold the Occupancy Department's decision if the Applicant does not attend the informal review and did not attempt to reschedule twenty-four (24) hours prior to the review. The BHA will reschedule an informal review when an Applicant submits evidence of compelling circumstances that prevented the Applicant attending the hearing on the scheduled date. Reschedule requests submitted after the hearing date must be submitted within 30 days of the hearing date and must be supported by evidence of compelling circumstances that prevented the applicant from attending and, if applicable, prevented the Applicant from submitting a request to reschedule prior to the hearing date.

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NOTE: Compelling Circumstances – when analyzing whether or not a Applicant's reasons for requesting a late hearing are compelling, the hearing officer will consider the following when determining whether or not the Applicant has good cause for requesting a late hearing: (1) the written facts or circumstances submitted by the Applicant which show that the Applicant is not willful (a willful act is a deliberate, intentional or voluntary act) or culpable (culpable is to be responsible or liable) in making the late request, which would require more than mere action or inaction (for example the Applicant's reason for not requesting a hearing timely should not due be to something the Applicant did or failed to do); (2) the swiftness with which the Applicant has attempted to remedy the default; (3) the existence of any meritorious defense to the underlying allegations; as well as, other equitable criteria such as: (a) whether the default resulted from a good faith mistake in following a rule or procedure; (b) the nature of the Applicant's explanation for not requesting a timely hearing; (c) the availability of other alternative sanctions; (d) whether not granting a late hearing would produce a harsh or unfair result.

3. Applicant Rights during the Informal Hearing

During the hearing, the BHA will put forth its evidence in support of a determination of Ineligibility, Withdrawal, denial of Priority status or Preference(s) or denial of Good Cause or Reasonable Accommodation. The Applicant will be afforded an opportunity to present evidence and testimony rebutting the basis for the BHA's determination.

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I. For disabled individuals only, inaccessibility of a critical element of their current dwelling: A member of the Household has a mobility or other impairment that makes the person unable to use a critical element of the current apartment or development AND the owner is not legally obligated under laws pertaining to reasonable accommodation to make changes to the apartment or dwelling unit that would make these critical elements accessible to the Household Member with the disability.

Verification Requirements:

- a) The name of the household member who is unable to use the critical element;
- b) a written statement from a Qualified Healthcare Provider verifying that the household member has a Disability (but not necessarily the nature of the Disability) and identifying the critical element of the dwelling which is not accessible and the reasons why it is not accessible; and
- c) a statement from the landlord or official of a government or other agency providing service to such Disabled Persons explaining the reason(s) that the landlord is not required to make changes which would render the dwelling accessible to the individual as a reasonable accommodation.

J. Homelessness: A Household lacks a fixed, regular and adequate nighttime place of habitation and the primary nighttime dwelling is one of the following:

- a) A supervised public or private shelter designed to provide temporary living accommodations (includes welfare hotels, congregate shelters and transitional housing **and rapid re-housing**); or
- b) A public or private place not designed for human habitation.
- c) An Applicant or a member of his/her household is suffering from a medical condition or disability which precludes him/her from residing in a public or private shelter.

Persons living with tenants in private or subsidized housing, even if only temporarily DO NOT qualify as homeless, **except** for the situation described in category "c" which shall be reviewed and determined by the BHA's Director of Occupancy or designee.

CHAPTER 8: RESIDUAL TENANCY POLICY

A remaining member(s) of a resident Household may apply to become a BHA resident as a Residual Tenancy Applicant, in the event of the death, departure or incapacity of the Head of Household. The Residual Tenancy Application will only be approved by the BHA if the Residual Tenancy Applicant including all Household Members meet the criteria below.

8.1 Qualifications for Residual Tenancy

8.1.1 In order to assume the status of a resident under this policy, the Residual Tenancy Applicant must be:

1. An adult who has been a recorded member of a resident Household on the most current lease a) Tenant Status Review form if the Head or Co-Head has been removed due to death or incapacity, or b) for more than twelve months, if the Head or Co-Head departed to other non-BHA housing and whose income has been recorded and considered in the rent computations during the period of his/her occupancy unless he/she was without income or was a full-time student. In the case that the Applicant's recorded member status was in-process but not finalized, but his or her income was already recorded and considered in the rent computations for the appropriate time period as specified above, he or she shall be eligible to be considered for Residual Tenancy.

OR

2. In the event the remaining member(s) of the resident Household consist only of minor children, the applicant must be an adult who, prior to entering into a lease has been appointed either a temporary or permanent guardian, or is the natural parent of one or more household members, and is willing to assume responsibility for the apartment and the household and is willing to enter into a lease.

OR

3. In the event the Residual Tenancy Applicant is an incapacitated adult who is unable to fulfill the responsibilities in the lease; the Applicant must be an adult who has been appointed either a temporary or permanent guardian, and is willing to assume responsibility for the apartment, and willing to enter into a lease.

AND

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4. The Applicant and Applicant's Household, if any, for Residual Tenancy status must meet the eligibility requirements for Applicants as set forth in Chapter 5 of the Admissions and Continued Occupancy Policy (ACOP) or any successor plan.

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8.1.2 Divorce, Separation or Protective Order

In the event of divorce, separation, submission of the 14 day victim certification as required by the BHA's Violence Against Women Act (VAWA) policy, or a protective order issued by a court under Chapter 209A, the person(s) identified as the "victim" will be permitted to apply as a Residual Tenancy Applicant to become a resident provided he or she otherwise qualifies under this policy. Person(s) not so designated may not apply as a Residual Tenancy Applicant.

8.2 Residual Tenancy and Income

Individuals applying for residual tenancy status will be found ineligible based on income exceeding the eligibility limits for Applicants for admission to public housing.

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8.3 Rent During Use and Occupancy Period

Pending a decision on the request for residual tenancy status, the Residual Tenancy Applicant will be required to pay a monthly use and occupancy charge. The charge shall be calculated pursuant to Federal and State regulations for all remaining Household Members. The Use and Occupancy Agreement shall permit the occupant to occupy the apartment pending determination of the Residual Tenancy Application without being permitted to sign a BHA standard dwelling lease.

8.4 Limitations of Policy

Remaining members of a resident household will not be considered for residual tenancy, if the departing or incapacitated Head or Co-Head of Household is relocating to another BHA apartment or BHA Leased Housing, is under eviction for non-payment of rent or for cause, or vacates with an outstanding balance due to the BHA (except in case of the Head or Co-Head's death). (A resident shall be regarded as being under eviction if, after a private conference, the Manager has decided to proceed with eviction and the Manager's decision has not been overturned by the BHA's tenant grievance process.) The limitations of this paragraph may not be applicable to remaining household members who were victims of domestic violence by the former Lease Holder(s). Verification of such situation shall be provided with the Application and during the screening process.

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Approval of residual tenancy shall be conditional on the remaining members of a resident household being properly housed. Where applicable, any approved applicant for residual tenancy shall remain under a Use and Occupancy Agreement and will not sign a BHA standard dwelling lease until such time as they are transferred to an appropriately sized unit. Refusal to transfer to an appropriately sized unit shall be considered a violation of this policy and will cause the revocation of the conditional approval of residual tenancy.

8.5 Residual Tenancy – Right of Appeal

A Residual Tenancy Applicant who disagrees with a Residual Tenancy application decision made by the BHA may request an informal hearing. If the applicant has been determined ineligible for Residual Tenancy due to a failure to satisfy the requirements of Section 8.1.1.1 through 8.1.1.3, the applicant's appeal rights shall include a hearing pursuant to the BHA's Tenant Grievance Procedures. A Residual Tenancy Applicant who meets the 8.1.1.1 through 8.1.1.3 threshold but does not meet the 8.1.1.4 threshold of the eligibility requirements for Applicants as set forth in Chapter 5 of the Admissions and Continued Occupancy Policy (ACOP) or any successor plan due to circumstances in which the applicant has been determined ineligible or withdrawn, the applicant's right to appeal shall be an informal hearing before a BHA hearing officer pursuant to Section 4.1.4 Applicant Appeals - Informal Hearings.

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CHAPTER 9: OTHER OCCUPANCY PROVISIONS

9.1 Lease Provisions

9.1.1 Leasing of Apartments

1. It is BHA's policy that all apartments must be occupied pursuant to a lease that complies with HUD & DHCD regulations. In state-aided housing, the lease must be approved by DHCD.
2. The lease shall be signed by the Head of Household, and Co-Head of Household, if any, and by the authorized representative of BHA, prior to actual admission.
3. All members of a Household shall be specifically listed as Household members.
4. If a resident transfers from one BHA apartment to another, a new lease shall be executed for the apartment into which the Household moves unless relocation occurs under the terms of a Use and Occupancy Agreement.

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violation of the lease. Any such persons will be considered Unauthorized Occupants by BHA and the entire Household will be subject to eviction action.

2. Any Household Member who moves from the apartment shall be removed from the lease. The Head or Co-Head of Household has the responsibility to report the move-out within 30 calendar days of its occurrence. A former Household Member may not be readmitted to the apartment except as a temporary visitor without undergoing screening by the Occupancy Department and securing BHA approval. Temporary visitors may occupy the apartment for no more than a total of forty-five calendar days within any twelve-month period.
3. A resident shall not permit the Apartment to be occupied by anyone other than Household Members, except temporary visitors, no one of whom may occupy the apartment for more than a total of forty-five (45) nights (or forty-five (45) days if the visitor regularly sleeps during the day), within any twelve-month period, unless the BHA for good cause otherwise consents to a longer period in writing before the expiration of 45 nights or such longer period as may have been authorized, or unless the visitor is first determined to be eligible to apply to be a member of the Household according to BHA policy, and an application is pending with the BHA.
4. Boarders and lodgers shall not be permitted to occupy an apartment, nor shall they be permitted to reside with any Household occupying an apartment.

9.2 Annual and Interim Redeterminations

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General Policy

The BHA shall redetermine and adjust Resident's monthly rent, appropriateness of Resident's apartment size, and continued eligibility for public housing, at least once annually. At this time, residents in federal developments/AMPs will be provided with information on their ability to choose between the two methods of determining rent as described in Section 9.2 of this policy.

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For purposes of determination or adjustment of rent and/or for assignment or transfer to a proper size apartment, Resident agrees to submit, within thirty (30) days after a request from BHA, signed, complete, true and accurate statements and/or other information setting forth pertinent facts as to Resident's household income, employment, and composition. Resident further agrees to execute documents authorizing release of such information from third parties, pursuant to requirements of State and/or Federal law.

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Resident agrees to pay to BHA any rent which should have been paid but for Resident's misrepresentation of any written information furnished to BHA in Resident's application for an apartment, or in substantiating documentation, or in any documentation submitted on a redetermination, or for Resident's failure to supply, in a timely manner, documentation requested by BHA on a redetermination.

Although rent is typically set only at the time of the annual determination, it may be set more often on the basis of changes in Resident's household income or composition, in accordance with the BHA lease.

Residents shall report to BHA any increase in monthly gross household income of \$200 or more from the amount reported to BHA at the most recent annual rent determination or interim redetermination. Any such increase must be reported by the seventh day of the month following the month in which the increase occurs. Upon receipt of such a report, Resident's rent and family circumstances shall be reviewed in accordance with BHA's rent policy. Rent increases will be effective the second month after BHA sends Resident a Notice of Rent Change. If a Resident fails to report a change requiring a rent increase, rent shall be increased retroactively to the second month following the change.

When household income decreases, rent shall be decreased if requested by Resident, and if such rent decrease is in accordance with BHA policy. Rent decreases will be effective either as of the current month in which the change in circumstances is reported (if reported by no later than the fifteenth day of the month), or as of the first day of the next month after the change in circumstances is reported (if reported after the fifteenth day of the month). BHA may delay processing the rent decrease until Resident provides adequate verification of such change in circumstances justifying the decrease, but once verifications have been provided, the rent change will be made effective retroactively.

For residents in Federal developments/AMPs, if household income derives in whole or in part from benefits from welfare or public assistance from a state agency under a program for which the Federal, State or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the household in an economic self-sufficiency program or a work activities requirement, and household income decreases as a result of failure to comply with the conditions of said program or requirement, rent will not be decreased, during the period of such income reduction (to the extent that the decrease in income is a result of the benefits reduction), in accordance with BHA policy and 42 USCS §1437j(d). If such household income decreases as a result of fraud under said program or requirement, rent will not be decreased, during the period of such income reduction (to the extent that the decrease in income is a result of the benefits reduction), in accordance with BHA policy and 42 USCS §1437j(d). BHA shall not make any determination regarding non-compliance or fraud under such a program or requirement until BHA receives written notification from the relevant public agency specifying that household benefits have been reduced

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because of such non-compliance or fraud. Any determination by BHA not to reduce rent pursuant to BHA policy and 42 USCS §1437j (d) shall be subject to BHA's Grievance Procedures and Policy. For residents in Federal developments/AMPs, the BHA shall consider any decrease in income that results from the reduction of any welfare or public assistance benefits received by residents under any Federal, State or local law regarding a program for such assistance if resident(s) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance, pursuant to 42 USCS §1437j (f). A reduction in benefits resulting from the expiration of a lifetime time limit for a household receiving said benefits shall not be considered as a failure to comply.

If a resident claims they have no income, management staff must use the zero income questionnaire to attempt to determine how household expenses are being paid. In the event that family and friends are assisting the household, this is considered income and needs to be verified and counted.

Households paying \$0 rent must be re-certified every ninety days. This rule requires Residents to report to the management office every 90 days to re-certify income and family status.

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Before any change in Resident's rent is made, Resident will be notified by a written Notice of Rent Change containing the following information:

- A. The new rental amount and the date it will be effective;
- B. The amount of Resident's household income, household composition and other facts considered by BHA in determining Resident's new rent;
- C. Resident's right to and the method of obtaining a timely hearing under the grievance procedure.

State Developments Only - Rent will be determined in accordance with applicable State regulations, the BHA's Lease and the BHA's Rent Manual.

Federal Developments/AMPs Only - As part of the annual Tenant Status Review (TSR) process, residents in Federal Developments/AMPs will be provided written information about the following two different methods for determining the amount of rent payable by the family, their right to choose the method of determining rent and under what circumstances they may request a change to the method utilized in determining rent. As part of this process, residents will be educated about the benefits of selecting one method over another and will be asked to notify the BHA in writing as to which option they choose, except in cases where the resident is subject to the over-income policy described in section 9.2.1.

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1. Flat Rent

A fixed rent determined for each unit size based on a rent reasonableness study conducted by the BHA pursuant to 24 CFR 960.253 (b) of comparable units available in the private market or 80% of fair market rents (FMRs) as published by HUD annually. Flat rent will be set at the amounts determined by the rent reasonableness study, if such amounts exceed 80% of FMRs and at 80% of FMRs if the amounts determined by the rent reasonableness study are less than 80% of FMRs. On an annual basis the BHA will update the flat rent amounts within 90 days after HUD publishes new FMRs. The new flat rent shall apply to all new admissions and to existing residents at the time of their next scheduled annual Tenant Status Review (TSR). The BHA will maintain a current listing of its flat rent schedule as an appendix to the BHA Rent Manual and will provide this list to residents at least annually as part of the TSR process.

Financial Hardship: Residents who choose flat rents may request to change to an income-based rent at any time if the family is unable to pay the flat rent because of financial hardship. A financial hardship exists for these purposes when a family's income is reduced or their deductions are increased to the extent that an income-based rent is lower than the flat rent.

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2. Income-Based Rent

Rent determined by the family's income and allowable deductions in accordance with the BHA's Lease, the BHA's Rent Manual and applicable Federal regulations. Types of Income-Based rent include:

- A. The higher of 10% of Gross Annual Income or 30% of Adjusted Annual Income
- B. Ceiling Rent – a cap to the amount of income-based rent that a resident may pay for their unit, equal to the Flat Rent amount for the unit
- C. In the case of mixed families, Prorated Assistance as described in section 5.6
- D. A higher rent pursuant to the Over-Income Policy described in section 9.2.1

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9.2.1 Over-Income Policy

As part of the Housing Opportunity Through Modernization Act of 2016 (HOTMA), the BHA is required to impose an income limit for residents in

Federal developments/AMPs ("over-income limit"). Households whose income exceeds the over-income limit for more than two years will be charged a rent amount equal to the higher of a) the current FMR for the unit or b) the amount of monthly subsidy for the unit, including operating and capital fund amounts, as determined under HUD guidelines.

For the purposes of this policy, the over-income limit will be set at 2.4 times the Very Low-Income level for the area. HUD will publish the over-income limits for each family size annually.

If the BHA, during the course of conducting an annual redetermination or interim redetermination due to an increase in income, determines that the family's income exceeds the over-income limit, the family's over-income status will be documented in the family's tenant file and a two-year over-income grace period will begin effective as of the beginning date of the next rent period. If after one year from the initial determination that the household income exceeds the over-income limit, the BHA determines that the household income continues to exceed the over-income limit, the BHA will send a notice to the Resident. This notice will inform the Resident that the family income has exceeded the over-income limit for one year, and that if the family's income continues to exceed the over-income limit for the next 12 consecutive months, the family will be subject to a higher rent. If the BHA subsequently determines that the household income has exceeded the over-income limit for 24 consecutive months, the rent will be set at a higher level as prescribed above.

If at any time during the two-year over-income grace period, the BHA conducts an annual or interim redetermination and verifies that the family is now below the over-income limit, the over-income grace period will end and, if applicable, any over-income notices issued to the family during the over-income grace period will be cancelled. The household will be entitled to a new two-year grace period if the household income exceeds the over-income limit at another time.

9.2.2 Verification of Income, Assets, Income Deductions and Income Exclusions

Verification must be provided for all income, assets, income deductions and income exclusions pertaining to a Resident's household at least once annually as outlined in this procedure. These items are verified for purposes of determination of monthly rent.

The monthly rent is determined by adding gross income from all sources, for all Household Members, including income from assets, and reducing that income by allowable deductions and income exclusions, in accordance with Federal (HUD) and State (DHCD) laws and regulations.

The BHA will accept income verification in the following order of preference:

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Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system <u>and the Income Validation Tool (IVT)</u> (not available for income verifications of applicants)	Highest (Mandatory)
5	Upfront Income Verification (UIV) using non-HUD system	Highest (Optional)
4	Written third Party Verification	High (Mandatory to supplement EIV/IVT-reported income sources and when EIV has no data; Mandatory for non-EIV/IVT reported income sources; Mandatory when tenant disputes EIV/IVT-reported employment and income information <u>and</u> is unable to provide acceptable documentation to support dispute)
3	Written Third Party Verification Form	Medium-Low (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third Party Verification	Low (Mandatory if written third party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third party verification)

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV and (IVT) are not available for verifying income of applicants or for tenants residing in state funded housing programs.

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These verification techniques are described as follows:

- **Up-Front Income Verification** – Verification through the computer matching system employed by HUD (EIV) and (IVT) or a computer wage reporting system is the highest, most acceptable form of verification. For further information regarding the use of HUD's EIV system, refer to section 9.2.2.
- **Written Third Party Verification** – Written verification originated by a third party when Up-Front verification is not available, up to date or is disputed by a resident. Written third party verification includes resident-supplied original or authentic documents generated by a third party source. BHA will copy the documents into the Resident's file.

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9.2.3 Use of HUD's Enterprise Income Verification (EIV) and Income Validation Tool (IVT) Report System

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The EIV System is a web-based application providing employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of HUD's Office of Public and Indian Housing (PIH). This system is available to all PHAs nationwide. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

The Income Validation Tool (IVT) Report is a new report that replaces the current Income Discrepancy Report under the verification reports link in EIV. This report will facilitate and enhance BHA identification of tenant unreported or underreported income during interim and regular reexaminations. The IVT will be updated monthly and provide a comparison between tenant reported income and income information previously reported on the HUD-50058. It will include any discrepant income information specifically derived and reported from HUD's data sharing agreements with HHS-NDNH and the Social Security Administration (SSA). The IVT will also provide income and wage, unemployment compensation and SSA benefit information. HUD staff and BHA personnel will be able to search a comprehensive database comprised of several screens that will include income information for Heads of Household and family members where there may be discrepancies in family reported income and employer reported information. During reexamination, or other significant contacts with tenant families, BHA will see any reported discrepancies, determine the degree of tenant underreporting or misreporting of income information and take action in accordance with their policies to resolve the identified discrepancies.

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1. Required Use of EIV

The BHA is required to review an EIV Income Report of each family before or during mandatory annual and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. EIV is classified as an UIV technique (or automated written third party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed. The BHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

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Housing preference points to elderly applicant households for this development/AMP. If the percentage of elderly households occupying a development/AMP falls below 80%, the BHA will turn on Designated Housing Preference points to elderly applicant households for this development/AMP. The BHA shall also monitor closely when the percentage of non-elderly disabled households occupying a development/AMP reaches 20%, the BHA will turn off Designated Housing preference points to non-elderly disabled applicant households for this development/AMP. If the percentage of non-elderly disabled households occupying a development/AMP falls below 20%, the BHA will turn on Designated Housing Preference points to non-elderly disabled applicant households for this development/AMP.

10.4 Elderly Preference(State Elderly/Disabled Program only)

10.4.1 Plan Description

(1) General Provisions for Placements.

(a) Placements are to be made in elderly/disabled housing to achieve a mixed population of elderly households in 86.5% of the units and handicapped households in 13.5% of the units. The BHA shall place applicants in accordance with 760 CMR 5.10(2) in order to attain or to sustain these percentages. Such placements shall also be made in accordance with any applicable priority and preference categories.

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(b) Any accessible or modified unit shall be offered to an applicant household which includes a person, regardless of age, who has a physical handicap which handicap necessitates one or more of the special design features of the unit.

(2) Placements by BHA in Elderly/Disabled Housing. Prior to making a placement in elderly/disabled housing, the BHA shall determine the BHA's current percentage of c. 667 units occupied by disabled households. In making this determination the BHA shall count all c. 667 units including c. 667 congregate units, c. 667 section 8 new construction or substantial rehabilitation units, c. 667 modified units, and c. 667 conventional units. The BHA shall then place applicants as follows:

(a) If the percentage of units occupied by disabled households is less than 13.5%, the BHA shall place one eligible and qualified disabled household for each eligible and qualified elderly household placed until such time as the percentage of disabled households equals or exceeds 13.5%.

(b) If the percentage of the units occupied by disabled households equals or exceeds 13.5%, the BHA shall place eligible and qualified elderly households until such time as the percentage of disabled households falls below 13.5%.

(c) If the percentage of units occupied by disabled households equals or exceeds 13.5%, but the LHA has exhausted its waiting list of eligible and qualified elderly households, the LHA shall place those eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old until such time as the percentage of disabled households falls below 13.5% or until there is an application from an eligible and qualified elderly household.

(d) If the percentage of units occupied by disabled households equals or exceeds 13.5%, and the BHA has exhausted its waiting list of eligible and qualified elderly

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53. **Rapid Re-Housing Assistance** – The provision of housing relocation and stabilization services and short and/or medium term rental assistance (not to exceed thirty (30) months) as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing

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54. **Reasonable Accommodation**- A change or modification to BHA rules, policies, practices, or services or a Reasonable Structural Modification when such a change is reasonable and necessary on account of a persons disability to afford the person the ability to use and enjoy a BHA apartment or common areas, provided that the change does not pose an undue financial or administrative burden, or result in a fundamental alteration of BHA program.

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55. **Reasonable Structural Modification**- A change to a BHA apartment or to a common area which is reasonable and necessary on account of a person's disability to afford the person the ability to use and enjoy BHA premises and which does not pose an undue financial and administrative burden or result in a fundamental alteration of BHA program.

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56. **Residual Tenancy Applicant** - An existing Household Member, (except a Personal Care Attendant or Live-in Aide), or an adult (if all other Household Members in the apartment are minors or incapacitated adults), willing to assume guardianship where appropriate of an apartment where the Head and Co-Head of Household vacates or becomes incapacitated.

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57. **Residual Tenant** - A remaining Household Member, (except a Personal Care Attendant or Live-in Aide), or an adult (if all other Household Members in the apartment are minors or incapacitated adults) who has been approved under this policy to remain a BHA resident.

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58. **Non-Smoking** – A designation whereby smoking is prohibited inside an apartment or building (including common areas) and within a defined distance of the building.

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59. **State-Aided Housing** – A low-rent housing development aided or financed by loans and/or annual contributions from DHCD.

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60. **Temporary Housing” or “Temporarily Housed”** - A person or family shall be considered temporarily housed if he/she has not entered into a tenancy. For this purpose a tenancy will be taken to mean an agreement (written or verbal) by which an individual or family occupies the real property (house or apartment) of another with permission and subject to a rental fee.

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61. **Tenant Status Review (TSR)** - The process and the document used to complete the required annual reexamination of all BHA residents.

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