

Chapter 9.A

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

This chapter is applicable until the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 9.B of the model policy.

With the exception of non-public housing over income families, COC is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. COCs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which COC must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires COC to offer all families the choice of paying income-based rent or flat rent at least annually. COC's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains COC's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains COC's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and COC policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, COC must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Part V: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, COC must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, COC must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. PHAs also have the option of using a Safe Harbor income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to use of Safe Harbor income verifications. For any non-public housing over income families, COC may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, COC must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

COC is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of COC. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains COC's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

COC must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12- month period [24 CFR 960.257(a)(1)].

COC Policy

Generally, COC will schedule annual reexaminations to coincide with the family's anniversary date. COC will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, COC will perform a new annual reexamination, and the anniversary date will be changed.

COC may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of Participation in the Annual Reexamination Process

COC is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of COC. However, COCs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. COC should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

COC Policy

Families generally are required to complete the annual reexamination process via the resident portal. If completing the process electronically poses a hardship because of a family member's disability, the family should contact COC to request reasonable accommodation.

Notification of the annual reexamination will be sent via the resident portal, by first-class mail or by email, and will inform the family of the information and documentation that must be provided to COC, and the deadline for providing it.

Documents will be accepted by resident portal, mail, email, fax, or in-person. COC will, however, conduct reexams in person if requested as a reasonable accommodation or by LEP persons. Reasonable accommodation requests will be handled in accordance with policies in Chapter 2.

Further, an in-person interview will be scheduled if the family requests assistance in providing information or documentation requested by COC or if the required paperwork is not returned timely, or if it is returned timely but is not complete.

If the family is unable to attend a scheduled interview, the family should contact COC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview COC will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without COC approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

If the reexam notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 13) will be sent to the family's address of record, as well as to any alternate address provided in the family's file.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

COC Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a COC-designated reexamination form, as well as, supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or any stated deadline must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. COC may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

COC Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

COC Policy

At the annual reexamination, COC will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. COC will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If COC proposes to terminate assistance based on lifetime sex offender registration information, COC must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

COC Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If COC chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by COC, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If COC chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the COC.

If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by COC by the date specified, and this delay prevents COC from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

[24 CFR 960.253(f)]

9-II.A. OVERVIEW

HUD requires that COC offer all families the choice of paying income-based rent or flat rent at least annually. COC's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, COC must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every three years [24 CFR 960.253(f)]. COC is only required to provide the amount of income-based rent the family might pay in those years that COC conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the PHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

As it does for families that pay income-based rent, COC must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains COC's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

COC Policy

For families paying flat rents, COC will conduct a full reexamination of family income and composition once every three years.

However, for flat rent families who become over-income between full annual reexaminations, COC will conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, COC will resume reexamination of family income and composition once every three years.

If determination is as a result of an interim reexamination, COC will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, COC will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

COC Policy

In conducting full reexaminations for families paying flat rents, COC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.E above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)

As noted above, full reexaminations are conducted every three years for families paying flat rents. In the years between full reexaminations, regulations require the COC to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that COC does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

Scheduling

COC must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

COC Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, COC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

COC Policy

Generally, the family will not be required to attend an interview for an annual update. However, if COC determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent via the resident portal, by first-class mail or by email and will inform the family of the information and documentation that must be provided to COC. The family will have 10 business days to submit the required information to the COC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. COC will accept required documentation via resident portal, mail, by email, by fax, or in person.

If the family’s submission is incomplete, or the family does not submit the information in the required time frame, COC will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to COC.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. COC may use the results of the annual

reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

COC Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service

For families who include nonexempt individuals, COC must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for COC's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

COC Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations within 30 days of when the change occurs

COC will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require COC approval. However, the family is required to promptly notify COC of the addition [24 CFR 966.4(a)(1)(v)].

COC Policy

The family must inform COC of the birth, adoption, or court-awarded custody of a child within 30 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request COC approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

COC may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which COC consent will be given or denied. Under such policies, the factors considered by COC may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- COC's obligation to make reasonable accommodation for persons with disabilities.

COC Policy

Families must request COC approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by COC prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), COC will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by COC. Exceptions will be made on a case-by-case basis.

COC will not approve the addition of a new family or household member unless the individual meets COC's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If COC determines that an individual does not meet COC's eligibility criteria or documentation requirements, COC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

COC will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

COC Policy

If a family member ceases to reside in the unit, the family must inform COC within 30 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform COC within 30 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

COC Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

COC- Required Interim Reexaminations

COC-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by COC.

COC Policy

COC will conduct interim reexaminations in each of the following instances:

- For any change in family composition.

- If the family has reported zero income, COC will conduct an interim reexamination every three months as long as the family continues to report that they have no income.

- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), COC will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, COC will conduct an interim reexamination.

- COC may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

HUD regulations give the PHA the discretion to determine the circumstances under which families will be required to report changes affecting income.

COC Policy

Families are required to report all increases in income, both earned and unearned. COC will only conduct an interim if the increase is due to a new source of income, including returning to work for a previous employer, or the resumption of previously terminated/suspended benefits. In all other cases, COC will note the information in the file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The PHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

COC Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, COC will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, CO will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

COC Policy

The family may notify COC of changes either orally or in writing. If the family provides oral notice, COC may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if COC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, COC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from COC. This time frame may be extended for good cause with COC approval. COC will accept required documentation via resident portal, mail, by email, or in person.

Effective Dates

The PHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

COC Policy

If the tenant rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the tenants rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, COC must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in COC's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

COC Policy

Unless COC is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires COC to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When COC redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of COC's schedule of Utility Allowances for families in COC's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, COC must notify the tenant that the tenant may ask for an explanation stating the specific grounds of COC determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under COC's grievance procedure [24 CFR 966.4(c)(4)].

COC Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, COC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, COC may discover errors made by COC. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.