Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program. COC has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by COC.

When determining COC policy on terminations of the lease, COC must consider state and local landlord-tenant laws in the area where COC is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by COC. It is presented in four parts:

Part I: Termination by Tenant. This part discusses COC's requirements for voluntary termination of the lease by the family.

Part II: Termination by COC- Mandatory. This part describes circumstances when termination of the lease by COC is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements and families that have been over the income limit for 24 consecutive months.

Part III: Termination by COC – Other Authorized Reasons. This part describes COC's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes COC to terminate. For some of these options HUD requires COC to establish policies and lease provisions for termination, but termination is not mandatory. For other options COC has full discretion whether to consider the options as just cause to terminate provided that COC policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that COC may consider in lieu of termination, and the criteria COC will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and COC policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

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PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property management office or sent by pre-paid first-class mail, properly addressed.

COC Policy

If a family desires to move and terminate their tenancy with COC, they must give at least 30 calendar days advance written notice to COC of their intent to vacate.

The notice of lease termination must be signed by the head of household, spouse, co head, and other adult members.

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PART II: TERMINATION BY COC – MANDATORY

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. COC must establish policies for termination of the lease in these cases where termination is optional for the PHA.

For those tenant actions or failures to act where HUD requires termination, COC has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires COC to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

COC must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

COC Policy

COC has established a policy that revocation of consent to access financial records will result in termination of assistance in accordance with COC policy.

See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

COC must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by COC, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

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13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2010-3]

COC must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and COC determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, COC may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date COC determined the family to be noncompliant.

COC Policy

COC will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT COC'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

COC must terminate the lease if the family fails to accept COC's offer of a lease revision to an existing lease, provided COC has done the following:

- The revision is on a form adopted by COC in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- COC has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- COC has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to COC policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

COC must immediately terminate the lease if COC determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises.*

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13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]

Should COC discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, COC must immediately terminate assistance for the household member.

In this situation, COC must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, COC must terminate assistance for the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

COC is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2026-11~~2012-10~~]

After confirming the death of the HOH, PHAs must process an EOP action terminating rental assistance. PHAs must list the EOP date as the date of death in the Deceased Tenants Report (or the date of death as confirmed by an obituary or death record, if the date is not available in the Deceased Tenants Report). For the purposes of completing the EOP Form HUD-50058, this is the date the public housing lease is terminated.

If the PHA discovers unauthorized occupants who fail to vacate the unit (including a live-in aide who remains after the death of the HOH), the PHA must pursue judicial intervention to have them lawfully removed. PHAs must comply with all tenant and landlord laws with respect to lease termination, regaining possession of the premises upon death, removal of personal belongings from the public housing unit, and adverse possession claims. PHAs may be found liable for a wrongful eviction for changing the locks to prevent unauthorized occupants from entering the unit.

~~COC must immediately terminate the lease following the death of the sole family member.~~

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. *Absence* in this context means that no member of the family is residing in the unit. At its discretion, the PHA may allow absence for a lesser period in accordance with PHA policy. The lease will terminate if the family is absent for longer than the maximum period permitted.

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The family must supply any information or certification requested by the PHA to verify that the family is residing in the unit or relating to family absence from the unit. The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of absence from the unit, including any information requested on the purposes of family absences.

The PHA may adopt appropriate techniques to verify family occupancy or absence, including letters to the family at the unit, phone calls, visits, or questions to the landlord or neighbors.

The PHA's ACOP must state the PHA policies on family absence from the dwelling unit. The PHA absence policy includes how the PHA determines whether or when the family may be

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absent, and for how long; and any provision for resumption of assistance after an absence, including readmission or resumption of assistance to the family.

COC~~PHA~~ Policy

The family is required to notify COC when all family members will be absent from the unit for any period greater than 30 calendar days. Written notice must be provided to COC at the start of the extended absence.

Upon COC request, the family must provide any additional information to COC related to the family's absence from the unit to confirm their continued residency in the unit. COC may take the following actions to determine whether the family is absent from the unit:

Write letters to the family at the unit;

Telephone the family at the unit;

Interview neighbors;

Verify whether utilities are in service; and/or

Check with the post office.

~~The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose.~~

~~The family must promptly notify the PHA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.~~

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, COC~~the PHA~~ will terminate the lease for other good cause.

A family terminated due to COC error will be reinstated retroactively. Any family terminated due to absence from the unit may reapply for assistance when the waiting list is open.~~*Abandonment of the unit.* If the family appears to have vacated the unit without giving proper notice, the PHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the PHA will secure the unit immediately to prevent vandalism and other criminal activity.~~

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13-II.J. OVER_INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]

In the public housing program, an *over-income family* is defined as a family whose annual income exceeds the over-income limit for 24 consecutive months. When this occurs, COC must either:

- Terminate the family's tenancy within six months of COC's final notification of the end of the 24-month grace period; or
- Within 60 days of COC's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

COC Policy

For families whose income exceeds the over-income limit for 24 consecutive months, COC will not terminate the family's tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public housing lease in accordance with the continued occupancy policies below.

All PHAs, regardless of size, must implement over-income policies. However, if a PHA owns or operates fewer than 250 public housing units and admits families whose annual income exceeds the low-income limit because there are no income-eligible families on the PHA's waiting list in accordance with 24 CFR 960.503, the over-income limit regulation does not apply to tenant families [24 CFR 950.503]. This regulation is unrelated to HOTMA 103 [24 CFR 960.507]. This is because these families are considered unassisted tenants are not participants in the public housing program.

Over-Income Limit [Notice PIH -2023-03 HOTMA 103 FAQs, December 2024]

COC must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size. When determining whether a family is over-income, the PHA must use the applicable income limit for the current number of family members, not including any household members. Further, the over-income limit is based on the family's annual income, rather than their adjusted income.

COC Policy

COC will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

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Family Size	1	2	3	4	5	6	7	8
Over-Income Limit	136,920	156,480	176,040	195,600	211,320	226,920	242,640	258,240

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

Decreases in Income [24 CFR 960.507(c)(4)]

If, at any time during the consecutive 24-month period following the initial over-income determination, COC determines that the family's income is below the over-income limit, COC's over-income policies no longer apply to the family. If COC later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

COC Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with COC's policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. COC will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03; HOTMA 103 FAQs, December 2024]

The PHA is required to provide over-income families with three notifications within 30 days of the following points: at the initial determination when a family's income first exceeds the limit, at 12 months after the family continues to exceed the limit, and at 24 months of continuously exceeding the limit. If proper notice is not given, the PHA is required to continue to allow the family to stay in the unit until all three notices have been given.

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the i. PHA's initial over-income determination. The 24 consecutive month grace period begins on the date the PHA notifies the family (for example, the post date of the notice).

The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time COC's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices

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COC Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, COC will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to COC's over-income policies. The notice will state that the family may request a hearing if the family disputes COC's determination in accordance with COC policies in Chapter 14. COC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has

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exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under the PHA's policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

COC Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, COC will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to COC's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes COC's determination in accordance with COC policies in Chapter 14. COC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509 ; Notice PIH 2023-03; Notice PIH 2023-27; HOTMA 103 FAQs, December 2024]

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, COC must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over-income based on this determination, COC must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the COC will follow its continued occupancy policies for over-income families. COC

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must afford the family an opportunity for a hearing if the family disputes within a reasonable time COC's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

COC Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, COC will notify the family in writing of the determination within 10 business days of the date of the determination. COC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments, The notice will state that the family will be charged the alternative non-public housing rent in accordance with COC's continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and COC no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. COC will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays COC the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. COC will not provide such families with hearing or grievance rights. Units occupied by non-public housing over-income (NPHOI) families continue to be part of the public housing inventory and are required to be inspected in the same way as units occupied by families in the public housing program. Further, NPHOI families are still required to abide by the PHA's smoke-free policies as well as the PHA's pet rules. NPHOI families are not entitled to VAWA protections as prescribed in HUD regulations but may be entitled to protections under state and local law.

The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, COC may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by COC in accordance with HUD regulations. COC will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.

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NPHOI families will not receive a utility allowance. The family will be responsible for their utilities where utilities are individually metered. Where utilities are not individually metered, the NPHOI family will be charged an allocation of the total energy plus any surcharges with no utility allowance.

If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program. The family will continue to pay the alternative rent until they are readmitted to public housing.

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PART III: TERMINATION BY COC – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must adopt policies concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA lease. In the development of the terms of the lease, the PHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA also has the option to terminate the tenancies of certain over-income families (See 13-II.J).

The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA must take when terminating a family's lease

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

Definitions **[24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in section 16-VII.B.

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug, which include medical marijuana, with the intent to manufacture, sell, distribute, or use the drug.

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Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and COC-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Sexual assault is defined in section 16-VII. B.

Stalking is defined in section 16-VII.B.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

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Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

COC Policy

COC will terminate the lease for drug-related criminal activity, which include medical marijuana, engaged on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged on or off the premises by any other person under the tenant's control.

COC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

In making its decision to terminate the lease, COC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, COC may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

COC Policy

COC will terminate the lease when COC determines that a household member is illegally using a drug, which includes medical marijuana, or COC determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

COC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

In making its decision to terminate the lease, COC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, COC may, on a case-by-case basis, choose not to terminate the lease.

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Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

COC Policy

COC will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including COC management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

COC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

In making its decision to terminate the lease, COC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, COC may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

COC Policy

COC will terminate the lease if COC determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

COC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

In making its decision to terminate the lease, COC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, COC may, on a case-by-case basis, choose not to terminate the lease.

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Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

COC Policy

COC will terminate the lease if COC determines that a household member has furnished false or misleading information concerning illegal drug use, which includes medical marijuana, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

COC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, COC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, COC may, on a case-by-case basis, choose not to terminate the lease.

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Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim [24 CFR 5.2005(c)(1)].

COC Policy

COC will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of charges due under the lease, including nonpayment of rent. Four late payments within a 12 month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by COC for the benefit and well-being of the development and the tenants; which shall be posted in the property management office and incorporated by reference in the lease

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

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To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the property (including damages to buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, COC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, COC may, on a case-by-case basis, choose not to terminate the lease.

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13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to only those examples. The Violence against Women Act prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as "other good cause" for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [see 24 CFR 5.2005(c)(1)].

COC Policy

COC will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

Persons subject to lifetime sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a lifetime registration requirement under a state sex offender registration program.

Discovery of facts after admission to the program that would have made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for COC to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by COC that such a dwelling unit is available

Failure to permit access to the unit by COC after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform COC of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 30 business days of the event.

Failure to abide by the provisions of COC pet policy

If the family has breached the terms of a repayment agreement entered into with COC

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

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All firearms/weapons in the lawful possession of a resident, members of the resident's household, and/or resident guest/visitor must be in accordance with federal, state, and local laws. The unlawful possession of firearms/weapons by a resident, members of the resident's household and/or resident guest/visitor is prohibited and constitutes a material lease violation.

If a household member or their guest has engaged in or threatened violent or abusive behavior toward COC personnel or contracted vendors

Abusive or violent behavior towards COC personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, COC will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, COC may, on a case-by-case basis, choose not to terminate the lease.

~~***Family Absence from Unit [24 CFR 982.551(i)]***~~

~~It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.~~

~~COC Policy~~

~~The family must supply any information or certification requested by COC to verify that the family is living in the unit, or relating to family absence from the unit, including any COC-requested information or certification on the purposes of family absences. The family must cooperate with COC for this purpose.~~

~~The family must promptly notify COC when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.~~

~~If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, COC will terminate the lease for other good cause.~~

~~*Abandonment of the unit.* If the family appears to have vacated the unit without giving proper notice, COC will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, COC will secure the unit immediately to prevent vandalism and other criminal activity.~~

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~~**Upon the PHA's HOTMA 102/104 compliance date, the below section on the asset limitation is added:**~~

Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

COC Policy

COC has adopted a policy of total nonenforcement of the asset limitation for all program participants. The asset limitation only applies to initial eligibility determinations for new admissions to COC's public housing program.

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13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that COC may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with COC policy.

Additionally, under the Violence against Women Act, COC may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking. Or human trafficking.

COC Policy

COC will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon COC request.

Repayment of Family Debts

COC Policy

If a family owes amounts to COC, as a condition of continued occupancy, COC will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from COC of the amount owed. See Chapter 16 for policies on repayment agreements.

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13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits COC to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

COC Policy

COC will use the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that COC may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

COC Policy

COC will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of COC's failure to terminate the tenancy

The effect of COC's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, including the age of the individual at the time of conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future

When there is a record of arrest, COC may obtain a copy of the police report associated with the arrest and consider the circumstances of the arrest, including:

Any statements made by witnesses or the participant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

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Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

In the case of program abuse, $5,000 of the underpaid rent and whether or not a false certification was signed by the family

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Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

COC Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, COC will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose COC will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

Reasonable Accommodation [24 CFR 966.7]

COC Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, COC will determine whether the behavior is related to the disability. If so, upon the family's request, COC will determine whether alternative measures are appropriate as a reasonable accommodation. COC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

COC's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

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13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSUALT, STALKING, OR HUMAN TRAFFICKING

This section addresses the protections against termination of tenancy that the Violence against Women Act (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13]. Additionally, property damage and noise complaints due to abuse cannot be used as the basis for eviction [Form HUD-5380].

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

COC and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

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Limits on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]

While VAWA prohibits COC from using domestic violence, dating violence, sexual assault, stalking, or human trafficking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit COC's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking providing that COC does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit COC's authority to terminate the tenancy of any public housing tenant if COC can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, COC must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize COC to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].

COC Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, COC will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, stalking, or human trafficking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

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Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest COC's determination that they are an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

COC Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, stalking, or human trafficking claims protection under VAWA, COC will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The Executive Director/CEO or his/her designee reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases COC will document the waiver in the individual's file.

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Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives COC the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" [FR Notice 8/6/13]. Moreover, HUD regulations impose on COC the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, stalking, or human trafficking [see 24 CFR 966.4(e)(9)].

Specific lease language affirming COC's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if COC chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that COC must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07]. COC must not initiate eviction procedures until 30 days after the lease bifurcation [Notice PIH 2017-08].

COC Policy

COC will bifurcate a family's lease and terminate the tenancy of a family member if COC determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members.

In making its decision, COC will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to COC by the victim in accordance with this section and section 16-VII.D. COC will also consider the factors in section 13.III.E. Upon such consideration, COC may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If COC does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, COC must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the PHA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013.

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PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

COC Policy

COC may conduct criminal records checks on all adult household members on an annual basis, including sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

COC may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

COC Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, COC will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of COC notice, to dispute the accuracy and relevance of the information. If the family does not contact COC to dispute the information within that 10 business day period, COC will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

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13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)])

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine COC documents directly relevant to the termination or eviction. If COC does not make the documents available for examination upon request by the tenant, COC may not proceed with the eviction [24 CFR 996.4(m)]. Notices of lease termination must be provided in accessible formats to ensure effective communication for individuals with disabilities,.

All notices of lease termination due to a tenant's failure to pay rent must also include:

- Instructions on how the tenant can cure the nonpayment of rent violation, including:
  - An itemized amount separated by month of alleged rent owed by the tenant;
  - Any other arrearages allowed by HUD and included in the lease separated by month; and
  - The date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;
- Information on how the tenant may recertify their income, request a minimum rent hardship exemption, or a request to switch from flat rent to income-based rent; and
- In the event of a Presidential declaration of a national emergency, information as required by HUD.

For notices of lease termination due to a tenant's failure to pay rent, the PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period [24 CFR 966.4(r)].

If the tenant pays the full amount of the alleged rent owed but not the arrearages, the nonpayment will still be considered cured, and an eviction for nonpayment of rent cannot be filed. However, HUD emphasizes that the protections in this rule do not apply to other types of evictions that result from non-rent lease violations, such as nonpayment of arrearages if allowed under the lease.

HUD also suggests the termination notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request a reasonable accommodation, and include a point of contact for reasonable accommodation requests.

COC Policy

The notice of lease termination will include information on how the family may request a reasonable accommodation for persons with disabilities and provide contact information for COC's 504 coordinator.

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When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

COC Policy

When applicable, the notice will also state that the resident may request a remote hearing.

If COC will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that COC will provide technical assistance, if needed, before the hearing.

When COC is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by COC for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of COC, or for a drug-related criminal activity on or off the premises.

COC Policy

The COC will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a copy of the forms HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, stalking, or human trafficking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i)};

- At least 30 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

  If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened

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If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

If any member of the household has been convicted of a felony

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

COC Policy

COC will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent which will not be provided to tenants until the day after the day rent is due.

For all other lease terminations, the COC will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with (run concurrently), or may run consecutive to the notice of lease termination

COC Policy

Any Notice to Vacate or Notice to Quit that is required by state or local law will ***run consecutive*** with the Notice of Lease Termination under this section.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When COC finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

COC Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

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Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with COC either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for COC's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

COC Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, COC will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, COC will seek the assistance of the court to remove the family from the premises as per state and local law.

COC may not proceed with an eviction action if COC has not made available the documents to be used in the case against the family and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

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13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When COC evicts an individual or family for criminal activity, including drug-related criminal activity, COC must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

COC Policy

A written record of every termination and/or eviction will be maintained by COC at the development where the family was residing, and will contain the following information:

Name of resident, number and identification of unit occupied

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)

Date and method of notifying the resident

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

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EXHIBIT 13-1: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – INITIAL NOTIFICATION FOR NPHOI FAMILY OPTION[1]

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These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

OVER-INCOME FAMILY INITIAL NOTIFICATION

_____

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public

[1] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available athttps://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/ . Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

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housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

> If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time

What about changes to my income?

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]

What if my family remains over-income in 24 consecutive months?

According to the Continued Occupancy Policy, your family may continue to reside in a public housing unit even if you remain over-income after 24 months. However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to stay in your unit after remaining over-income for 24 consecutive months, you will:

- Pay an "alternative non-public housing rent" (currently estimated at $_____)

> The alternative rent is adjusted annually and subject to change.

> You will receive a notification with more details on what to expect next if you decide to remain in a public housing unit after 24 consecutive months of being over-income.

- Need to sign a new lease for Non-Public Housing Over-Income (NPHOI) families.

> The NPHOI lease will need to be signed no later than 60 days after receiving notification of the end of the 24-month grace period or at the next lease renewal, whichever is sooner.

[INSERT PHA CONTACT INFORMATION]

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EXHIBIT 13-2: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – INITIAL NOTIFICATION FOR TERMINATE ONLY OPTION[2]

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These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

OVER-INCOME FAMILY INITIAL NOTIFICATION

_____

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income

[2] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

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for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

What About changes to my income?

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]

What if my family remains over-income for 24 consecutive months?

Within 30 days of the recertification, you will receive a notice like this one informing you that your family has remained over-income for 24 consecutive months. According to the Continued Occupancy Policy, families that remain over-income for 24 consecutive months must leave their units and find other housing in no more than___ *[up to 6 depending on PHA policy]* months after receiving notification.

If your family continues to reside in the unit after ____ *[restate date],* the PHA will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

[INSERT PHA CONTACT INFORMATION]

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EXHIBIT 13-3: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – 12-MONTH NOTIFICATION FOR NPHOI FAMILY OPTION[3]

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These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

OVER-INCOME FAMILY
12 MONTH NOTIFICATION

_____

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public

[3] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

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housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will need to re-examine your income in 12 months. After the reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

What if my family remains over-income in consecutive 12 months?

According to the Continued Occupancy Policy, your family may continue your tenancy even if you remain over-income for another 12 months (24 consecutive months total). However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to remain in a public housing unit after the 24 month grace period, you will:

- No longer be a public housing program participant and will therefore not be eligible to participate in the resident council or programs specifically for public housing residents.
- Pay an "alternative non-public housing rent" (currently estimated at $_____)
- Need to sign a new lease

[INSERT PHA CONTACT INFORMATION]

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EXHIBIT 13-4: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – 12-MONTH NOTIFICATION FOR TERMINATE ONLY OPTION[4]

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These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

OVER-INCOME FAMILY
12 MONTH NOTIFICATION

_____

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

What happens next?

[4] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

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For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public housing program.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will need to re-examine your income in 12 months. After the reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

What if my family remains over-income in consecutive 12 months?

Within 30 days of the recertification, you will receive a notice like this one informing you that your family has remained over-income for 24 consecutive months. According to the Continued Occupancy Policy, families that remain over-income for 24 consecutive months must leave their units and find other housing in no more than___ *[up to 6 depending on PHA policy]* months after receiving notification.

If your family continues to reside in the unit after ____ *[restate date]*, ___ *[name of PHA]* will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

[INSERT PHA CONTACT INFORMATION]

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EXHIBIT 13-5: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – 24-MONTH NOTIFICATION FOR NPHOI FAMILY OPTION[5]

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These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

OVER-INCOME FAMILY
24 MONTH NOTIFICATION

_____

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program. However, you do not have to move – see below for details.

[5] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

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What if I disagree that my family is over-income?

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location].* If you wish to request a hearing, please do so as soon as possible.

What about changes to my income?

Changes to your income after you receive this notice will not change our determination. Because your family has been over-income for 24 months, you are no longer eligible for assistance under the public housing program.

What do I need to do now?

According to the Continued Occupancy Policy, your family may continue your tenancy. However, because you will not receive assistance from the federal public housing program, your rent will be calculated differently.

If you choose to remain in a public housing unit, you will:

- Pay an "alternative non-public housing rent" (currently $_____)
- Need to sign a new lease within 60 days or at your next lease renewal (whichever is sooner)

If the lease is not signed within this time period, the PHA must terminate your tenancy by ____ *[no more than 6 months after this notification].* However, per policy, ___ *[name of PHA]* may permit an over-income family to execute the lease after this period (up to 60 days), but before termination of the tenancy. In this case, the family must pay the total difference between the alternative non-public housing rent and your public housing rent dating back to the date when you were required to execute the lease.

If you choose to leave your unit, please inform us as soon as possible according to your existing lease.

To inform the PHA if you do not plan to remain in a public housing unit*: [Use this space to detail when and how and family can inform the PHA if they decline to stay in the unit.]*

[INSERT PHA CONTACT INFORMATION]

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EXHIBIT 13-6: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – 24-MONTH NOTIFICATION FOR TERMINATION ONLY OPTION[6]

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These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

OVER-INCOME FAMILY
24 MONTH NOTIFICATION

_____

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program.

What if I disagree that my family is over-income?

[6] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

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If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location].* If you wish to request a hearing, please do so as soon as possible.

What about changes to my income?

Changes to your income after you receive this notice will not change our determination. If necessary, you may request an interim reexamination, but a decrease in income or rent will not make you eligible to remain. Because your family has been over-income for 24 consecutive months, you are no longer eligible for assistance under the public housing program.

What do I need to do now?

According to the Continued Occupancy Policy, your family cannot continue your tenancy. You must find other housing as soon as possible. Our policy is to allow families up to ____ *[up to 6 depending on PHA policy]* months to find other housing.

If your family continues to reside in the unit after ____ *[restate date],* the PHA will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

[The following is an optional section where the PHA may include referral services to support a family in finding new housing.]

The following services are available to assist you:

[INSERT PHA CONTACT INFORMATION]

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