

Appendix I

GUIDE TO FEDERAL REGULATIONS CONCERNING PUBLIC HOUSING OCCUPANCY

Part 1: Nondiscrimination in Federally Assisted Programs of the HUD – Title VI of the Civil Rights Act of 1964

1.4 (b) (2) (iii): Requirement for a Tenant Selection and Assignment Plan under which applicants receive unit offers and may refuse offers for good cause.

Part 5: General HUD Programs Requirements; Waivers.

Subpart A: Generally Applicable Definitions

5.100: General Definitions for: 1937 Act, Americans with Disabilities Act, Administrative Law Judge, Department (HUD), Elderly person, Fair Housing Act, Fair market rent, General counsel, Housing Agency (PHA and HA), HUD, National Environmental Policy act, Notification of Fund Availability, Office of Management and Budget, Organizational Unit, Public housing, Public housing agency, Responsible entity, Section 8, Secretary, and Uniform Relocation Act.

The following terms were added to the definition section: Covered person, Drug, Drug-related criminal activity, Federally assisted housing, Guest, Household, other person under the tenant's control, premises, and violent criminal activity.

5.105: Other Federal Requirements include: Nondiscrimination and Equal Opportunity; Requirements on disclosure; Prohibition on use of Debarred, Suspended or Ineligible Contractors; and Drug-free workplace. The provision was amended to include part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101.

5.107: Audit requirements for non-profit organizations.

5.110: The Secretary may, subject to statutory limitations, waive any provision of this title and delegate authority in accordance with section 106 of HUD's Reform Act of 1989.

Subpart B: Disclosure and Verification of Social Security Numbers, Verification of Income Information

5.210: Applicants for federally assisted housing must provide Social Security Number and income information. May only be used for assistance and to reduce incidence of fraud, waste and abuse.

5.212: The Privacy Act is enforced with all information obtained from the applicant. A Privacy Act notice shall be provided at the time of application and at each annual income recertification.

5.214: This area defines the following terms: Assistance applicant, Computer match, Computer matching agreement, Consent form, Employer Identification Number (EIN), Entity applicant, Federal agency, Income information, Individual owner applicant, IRS, Owner, Social Security Number (SSN), Social Security Administration, and State Wage Information Collection Agency (SWICA). Redefinition of Assistance applicant, Participant, and Processing Entity.

5.216: Describes who must submit a complete and accurate SSN for all members of the household who are 6 years old or older or submit a certification that a SSN has not been assigned. The required documents are Social Security Number and Employer Identification Numbers.

In Special Documentation Rules describes certification of inability to meet documentation requirements; acceptance or certification by processing entity; effect on assistance applicants; effect on participants; time for submitting documentation; rejection of documentation of certification; information on SSNs and EINs; form and manner of certifications.

5.218: If SSN, EIN or certification of no SSN is not provided, assistance will be denied. Assistance will be terminated when proper documentation is not provided to verify SSN, EIN or certification of no SSN.

5.230: Requirement that applicant and each adult member of the family submit a signed consent form during the eligibility process or at the regular scheduled income reexamination. Consent form shall contain authorization to obtain information necessary to complete or verify participation in the program; to verify previous or current employers' income information; to obtain IRS and SSA information for the sole purpose of verifying income; to release information requested within 15 months of signing the consent form.

5.232: If an applicant or other adult family member not submit the required signed consent form, assistance to and admissions for benefits will be denied or terminated.

5.234: Income information will be obtained through a computer matching agreement between HUD and a SWICA or Federal agency or between a PHA and SWICA agency after it has been certified that the applicants and participants have signed a consent form. This information can only be used to obtain income information from the IRS or SSA to verify program eligibility.

5.236: Assistance to applicant or participant may be terminated, denied, suspended or reduced based on income information from SWICA or Federal agency. How to verify income information How to handle substantial income discrepancy. Applicant or participant opportunity to contest the findings.

5.238: Penalties for violating requirements on use and disclosure of income information may be subject to civil or criminal penalties under 42 U.S.C 3544(c)(3), 26 U.S.C. 7213 (a), or 18 U.S.C. 1905.

5.240: Family responsibility to promptly furnish written income information. PHA verification.

Subpart C: Pet Ownership

5.303: This subpart does not apply to service animals that assist persons with disabilities. How this is documented.

5.306: Definitions of: Common household pets, Elderly or disabled person, Housing programs, Project for the elderly or persons with disabilities, Project Owner, and Public Housing Agency.

5.309: Prohibition against discrimination against pet owners.

5.312: Written notice required to residents who are elderly or disabled that they can own or keep a common household pet and that an animal used to assist a person with a disability is excluded from the requirements in subpart C. Tenant can request a copy of the pet policy including rules or amendments. If a PHA chooses not to promulgate pet rules, the notice shall be served within 60 days of the effective date.

5.315: General requirements for the content of the pet rules including provisions when a PHA chooses not to promulgate rules.

5.318: Areas that must be covered by the pet rules: the definition of common household pet used in the regulations; the density of tenants and pets; pet size and type; potential financial obligation of tenants such as pet deposits, maximum pet deposits for housing or public housing programs, and waste removal; standards of pet care; pet licensing; designated pet areas; and pets temporarily on the premise.

5.321: Lease provisions related to pets: tenant permission to keep common household pets; the pet rules promulgated; violation to the rules may be grounds for removal of the pet or termination of the pet owner's tenancy.

5.324: The lease executed on or after the implementation of subpart C shall contain the lease provisions described in 5.321 and if applicable, 5.360.

5.327: Subpart C does not prohibit removing any pet, if the pet's conduct or condition under the State or local laws is a nuisance or a threat to the health or safety of other occupants or persons in the community.

5.350: This section describes the mandatory pet rules for housing programs regarding inoculation, sanitary standards, pet restraint, and pet registration.

5.353: Pet rules shall use 5.318 and 5.350 as a foundation. Description of method to establish pet rules in assisted housing (not public housing).

5.356: Pet rule violation procedure in assisted housing (not public housing).

5.359: Right of applicant to refuse unit offer based on proximity of a tenant who owns or keeps a common household pet in assisted housing (not public housing).

5.360: Additional lease provisions for inspections and emergencies for tenants who own or keep a common household pet in the dwelling unit in assisted housing (not public housing).

5.363: Procedures to handle health or safety of the pet in case of death or incapacity of the pet owner in assisted housing (not public housing).

5.380: The procedure for developing pet rules for public housing programs are described in this section.

Subpart D: Definition of Section 8 and Public Housing Assistance Under U.S Housing Act of 1937

5.400: This subpart applies to Section 8 and Public Housing Assistance Under the United States Housing Act of 1937.

5.403: Definitions: Annual contributions contract (ACC), Applicant, Disabled family, Displaced family, Elderly family, Family, Live-in aide, Near-elderly family, and Person with disabilities.

Subpart E: Restrictions on Assistance to Non-citizens

5.500: Subpart E implements Section 214 of the Housing and Community Development Act of 1980, prohibiting financial assistance to persons based on ineligible immigration status.

5.502: For any documentation that requires a signature under subpart E, the PHA must provide documentation in language that is understood by applicant.

5.504: Defines terms used in Subpart E: Child, Citizen, Evidence of citizenship or eligible status, Family, Head of household, Housing covered programs, INS, Mixed family, National, Noncitizen, Project owner, Public housing covered programs, Responsible, Section 8 covered programs, Section 214 covered programs, and Tenants.

5.506: Section 214 assistance restricted to citizens and non citizens with eligible immigration status.

5.508: Details on submission of evidence of citizenship or eligible immigration status.

5.510: Original documents designated by the INS required as proof of eligible immigration with copies of the documentation retained for the applicants' file.

5.512: How to verify eligible immigration status, PHA election to provide assistance before verification, primary verification, secondary verification, and exemption from liability for INS verification.

5.514: Assistance to a family may not be delayed, denied, reduced or terminated because of the immigration status of a family member except as provided in this section.

5.516: The section describes the assistance available to mixed families covered under the National Housing Act of 1965. Assistance to mixed families may be provided on a prorated basis.

5.518: Preservation assistance available to mixed families and other families for continued assistance, temporary deferral of termination of assistance, and an option to select proration of assistance at the end of deferral period.

5.520: Method of prorating assistance for Housing, Section 8 and Public Housing covered programs.

5.522: Family of a noncitizen student may be eligible for prorated assistance.

5.524: Non-discriminatory requirements for noncitizens with ineligible immigration status.

5.526: PHA protection from liability as set forth in Section 214 (e) as long as the verification system is in accordance with prescribed HUD rules and requirements.

5.528: How to handle tenant who intentionally misrepresented eligibility status.

Subpart F: Family income and Rent

5.601: Income and rent: determining annual, excluded and adjusted income, determining rent, utility allowances and utility reimbursements, additional occupancy requirements.

5.603: Definitions: child care expenses, Dependent, Disability assistance expenses, Economic self-sufficiency program, Extremely low income family, Full-time student, Imputed welfare income, Low income family, Medical expenses, Monthly adjusted income, Monthly income, Net family assets, Owner, Responsible entity, Tenant rent, Total tenant payment, Utility allowance, Utility reimbursement, Very low income family, Welfare assistance and Work activities.

5.609: Annual income, excluded income and how to annualize the income for the purpose of calculating the rent.

5.611: Adjusted income, deductions from income.

5.613: PHA cooperative agreements with welfare agencies.

5.615: Imputed welfare income, the review of PHA's decision and the PHA's relationship with welfare agencies.

5.617: Annual reexamination requirements and verification guidance.

5.628: Computing total tenant payment.

5.630: Minimum rent and hardship exemptions.

5.632: Utility reimbursements: eligibility, to whom paid.

5.634: Tenant rent for Section 8 programs: total tenant payment minus any utility reimbursement.

5.653: Eligibility and income-targeting for Section 8 project-based assistance programs.

5.655: Selection of residents to occupy a project or unit in Section 8 project-based assistance programs.

5.657: Regular and interim reexaminations of family income and composition in the Section 8 project-based assistance programs.

5.659: Family's obligation to supply the information, release and consent and the owner's responsibility to verify the information in Section 8 project-based assistance programs.

5.661: A Section 8 owner may lease a Section 8 unit to a police or other security personnel with continued Section 8 assistance for the unit.

Subpart G: Physical Condition Standards and Inspection Requirements

5.701: The Physical Condition Standards

5.703: This section describes the physical condition standards for HUD housing that is decent, safe, sanitary and in good repair (DSS/GR).

5.705: The housing inspections to be conducted annually.

Subpart H: Uniform Financial Reporting Standards

5.801: Programs that must implement a uniform financial reporting system.

Subpart I: Preventing Crime in Federally Assisted Housing – Denying Admission and Terminating Tenancy for Criminal Activity or Alcohol Abuse

5.850: Defines which subsidized housing is covered.

5.851: Authority to screen applicants and evict tenants.

5.852: Discretion in screening and eviction actions.

5.853: Definitions.

5.854: Denying admissions – when is admission prohibited for individuals who have engaged in drug-related criminal activity.

5.856: Prohibition of admission of sex offenders.

5.857: Prohibition of admission of alcohol abusers.

5.858: Termination of tenancy – authority to evict drug criminals.

5.859: When specifically authorized to evict other criminals.

5.860: When specifically authorized to evict alcohol abusers.

5.861: Evidence of criminal activity.

Subpart J: Access to Criminal Records and Information

5.901: This section applies to criminal conviction background checks by PHAs that administer Section 8 and public housing programs when they obtain criminal records.

5.902: Definitions

5.903: Special authority to access criminal records.

5.905: Special authority to obtain access to sex offender registration information.

**Part 8: Nondiscrimination Based on Disability
in Federally Assisted Programs and Activities of HUD.**

8.3: Definitions: Accessible, Accessible route, Adaptability, Alteration, Applicant for assistance, Auxiliary aids, Department or HUD, Facility, Federal financial assistance, Handicap, Historic preservation programs or activities, Historic properties, Individual with disabilities, Physical or mental impairment, Major life activities, Has a record of such an impairment, Is regarded as having an impairment, Multifamily housing project, Primary recipient, Program or activity, project, Qualified individuals with disabilities, Replacement cost of the complete facility, Secretary, Section 504, and Substantial impairment.

8.4: Prohibition against discrimination based on disability. Ways a recipient of federal funds may not discriminate against persons with disabilities, non-disabled person may be excluded from program if it is limited by law to individuals with disabilities, and responsibility to integrate the setting appropriate to the needs of a qualified individuals with disabilities.

8.5: Reserved.

8.6: Responsibility to ensure effective communication with applicants, beneficiaries, and members of the public. Information indicating existence and location of accessible services, activities, and facilities shall be available. Does not require a recipient to take action that would result in fundamentally altering the nature or activities of the program or in undue financial and administrative burdens.

Subpart C: Program Accessibility

8.20: A qualified individual with a disability must not be denied, excluded or discriminated against under any program or activity that receives Federal financial assistance because a recipient's facilities are inaccessible to or unusable by such individuals.

8.21: All new construction of non-housing facilities shall be designed and constructed to be readily accessible to and usable by individuals with disabilities. An existing non-housing facility, to the maximum extent feasible, shall be altered to be readily accessible to and usable by individuals with disabilities, unless doing so would impose undue financial and administrative burdens.

8.22: New multifamily housing projects shall be designed and constructed to be readily accessible to and usable by individuals with disabilities. 5% of the total dwelling units or at least one unit in a multifamily housing project shall be made accessible.

8.23: Requirements when substantial alterations are done. Requirements for other alterations.

8.24: Existing housing programs, when viewed in its entirety, must be readily accessible to and usable by individuals with disabilities. Time period of compliance, a transition plan, and a time period for structural changes.

8.25: Accessibility requirements for development and alteration of public housing and multi-family Indian housing, needs assessment and transition plan for existing public housing and multi-family Indian Housing.

8.26: Distribution of accessible dwelling units throughout projects and sites in a sufficient range of sizes and amenities to provide choice of living arrangements comparable to that of other persons eligible for housing assistance under the same program.

8.27: Responsibility to ensure information regarding the availability of accessible units reaches eligible individuals with disabilities and to maximize the use of these units by eligible individuals whose disability requires the accessible features.

Part 35

Subpart A: Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

Subpart A is the Lead Disclosure Rule. It specifies the types of information that PHAs must give to residents before occupancy, including the Lead Hazard Information Pamphlet and the Lead Disclosure Addendum that identifies any known information on the presence of lead-based paint and lead-based paint hazards.

Subpart B: General Lead-Based Paint Requirements and Definitions for All Programs

Provides information on general requirements and definitions for all programs covered by the Lead Safe Housing Rule (subparts B-R). General requirements include the effective date of the Rule, applicability and exemptions, notices, Lead Hazard Information Pamphlet, compliance with Federal, State, Tribal, and local laws, and record-keeping.

Subpart L: Public Housing Programs

Identifies the purpose and applicability, the lead hazard evaluation and reduction work that is required, actions required regarding children with environmental intervention blood lead levels, eligible costs, and insurance coverage.

Subpart R: Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities

Details the requirements for lead hazard evaluation and lead hazard reduction, which includes worksite preparation, occupant protection, safe work practices, clearance, and ongoing maintenance and reevaluation.

Part 100: Discriminatory Conduct under the Fair Housing Act

Subpart A: General

100.1: Authority for HUD to administer and enforce title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

100.5: No person shall be discriminated against based on race, color, religion, sex, handicap, familial status, or national origin in the sale, rental or advertising of a unit, brokerage services, or real estate-related transactions.

100.10: What is not prohibited by special membership organization, what applies to housing for older persons defined in subpart E and exemptions on uncommon housing accommodations.

100.20: Definitions: Aggrieved person, Broker or agent, Discriminatory housing practice, Dwelling, Familial status, Person, Person in the business of selling or renting dwellings, and State.

Subpart B: Discriminatory Housing Practices

100.50: Description of conduct that is unlawful housing discrimination under section 804 and section 806 of the Fair housing Act and unlawful real estate practices.

100.60: Unlawful refusal to sell or rent.

100.65: Discrimination in terms, conditions, privileges and services.

100.70: Other prohibited sales or rental conduct.

100.75: Discriminatory advertising, statements or notices.

100.80: Discriminatory representations about availability of units.

100.85: Blockbusting.

100.90: Discrimination in brokerage services.

Subpart C: Discrimination in real estate services

Subpart D: Prohibition against discrimination based on disability

100.201: Definitions: Accessible, Accessible route, ANSI A117.1-1986, Building, Building entrance on an accessible route, Common use areas, Controlled substance, Covered multifamily dwellings, Dwelling unit, Entrance, Exterior, First occupancy, Ground floor, Handicap, Physical or mental impairment, Major life activities, Has a record of such impairment, Is regarded as having an impairment, Interior, Modification, Premises, Public use areas and Site.

100.203: Unlawful to discriminate in sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a Disability.

100.203: Unlawful for any person to refuse to permit, at the expense of a disabled person, reasonable modification of existing premises occupied or to be occupied.

100.204: Unlawful not to make reasonable accommodations in rules, policies, practices, or services. Examples of requests are given in this section.

100.205: Multifamily dwellings available after March 13, 1991 should have at least one building entrance on an accessible route unless it is impractical to do so. The burden of establishing impracticality lies on the person who designed or constructed the housing facility

Subpart E: Housing for Older Persons

100.300: Fair Housing Amendments Act of 1988 that relate to housing for older persons.

100.301: Exemptions: the provision of familial status that satisfies the requirements of 100.302, 100.303, or 100.304.

100.302: Provisions regarding familial status shall not apply to housing specifically designed and operated to assist elderly persons.

100.303: Provisions regarding familial status shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older.

100.304: Provisions regarding familial status do not apply to housing intended and operated for persons 55 years of age or older.

100.305: How housing qualifies as a housing facility to qualify for older persons under 100.304

100.306: This section states the procedure for housing to operate as housing designed for persons who are 55 years of age or older.

100.307: This section states that reliable surveys or affidavits must be produced to verify age compliance with 100.305.

100.308: This section states that a person shall not be held personally liable for monetary damages for discrimination on the basis of familial status, if the person acted with good faith belief that the housing facility qualified for a housing for older persons exemption under this subpart.

Subpart F: Prohibited Interference, Intimidation or Coercion

100.400: This section states the department's interpretation of the conduct that is unlawful under section 818 of the Fair Housing Act.

Part 110: Fair Housing Poster

Subpart A: Purpose and Definitions

110.1 Procedures for displaying the fair housing poster for persons subject to sections 804 through 806 of the Fair Housing Act.

110.5: Definitions: Discriminatory housing practice, Dwelling, Family, Person, Fair housing poster, the Act, and Person in the business of selling or renting dwellings.

Subpart B: Poster Display Required

110.10: When, where and how fair housing poster is to be displayed.

110.15: The fair housing poster shall be prominently displayed.

110.20: Howl persons may obtain the poster.

110.25: Size of the fair housing poster.

Subpart C: Enforcement

110.30: A failure to display the fair housing poster as required, shall be deemed prima facie evidence of a discriminatory housing practice when any person claims to have been injured by a discriminatory housing practice.

Part 903: Public Housing Agency Plans

903.1(b) The PHA plan's purpose is to provide local accountability and a source for information about the PHA's policies, rules and requirements.

903.7(c) The PHA's Annual Plan must contain a statement of the PHA's policies governing eligibility, selection and admissions, including preferences for admission, procedures for maintaining the waiting list, whether the PHA qualifies for and wishes to use site-based waiting lists, and the PHA's deconcentration policy and procedures.

903.7(d) The PHA's Annual Plan must contain the PHA's rent determination policies.

903.7(f) The PHA's Annual Plan must contain the PHA's grievance procedures.

903.7(i) The PHA's Annual Plan must contain information on housing designated for the elderly or people with disabilities.

903.7(l) The PHA's Annual Plan must contain information on the PHA's community service and self sufficiency activities.

903.7(n) The PHA's Annual Plan must contain the PHA's pet policy.

Part 960: Admission To, and Occupancy Of, Public Housing

Subpart A: Applicability, Definitions and Equal Opportunity Requirements

960.101: This subpart is applicable to public housing.

960.102: This section outlines the definitions found elsewhere and additional definitions used in this part to describe admissions to and occupancy of public housing.

960.103: A PHA must administer the public housing program in accordance with all applicable equal opportunity requirements and affirmatively further fair housing. The PHA must submit a signed equal opportunity certifications to HUD in accordance with 903.7(o) of this title.

Subpart B: Admission

960.201: HUD eligibility and selection requirements for admissions to public housing.

960.202: Requirements for PHAs to have and use tenant selection policies.

960.203: Standards for PHA tenant selection criteria. Tenant selection criteria shall consider the individual's attributes and behavior and shall not impute a particular group or category of persons of which an applicant may be a member.

PHA is responsible for screening family behavior and suitability for tenancy and may consider all relevant information. The requirement with respect to deconcentrating poverty and producing a mix of incomes will be found in the PHA Plan rule.

When unfavorable information received, PHA shall consider time, nature, and extent of the applicant's conduct, and a reasonable probability of favorable future conduct or financial prospects.

960.204: Denial of admission for criminal activity or drug abuse by household members.

960.205: Drug use by applicants: obtaining information from drug treatment facility.

960.206: PHA waiting list may establish local preference. including for residents, working families, person with disabilities, victims of domestic violence and single persons who are elderly, displaced, homeless or a person with a disability. PHA may match characteristics of the family with the type of unit available, set housing limitations for single persons, and must use the selection method described in this section.

960.208: This section states that the PHA must promptly notify any applicant determine ineligible or eligible for admissions to the project. Ineligible applicants have an opportunity for an informal hearing. If the applicant is eligible, the applicant will be notified of the approximate date of occupancy.

Subpart C: Rent and Reexamination

960.253: This section describes the different rent options: flat rent, income-based rent, and ceiling rent. Information regarding the policy on switching type of rent and amounts of rent under each option must be provided to the family. A family may switch from flat rent to income-based rent because of hardship.

960.255: Definitions: Disallowance, Previously unemployed, and Qualified family. This section also describes the disallowance when there is an increase in earned income (the initial twelve months exclusion; the second twelve months exclusion and phase-in; and maximum four year disallowance), the inapplicability to admission, and individual savings accounts.

960.257: This section states when a PHA must conduct annual reexaminations, for whom and when interim reexaminations are done, and must adopt admission and occupancy policies concerning the conduct of annual and interim reexaminations.

960.259: Family obligations to sign a consent form and supply information necessary for admissions and continued occupancy. PHA's responsibility to reexamine and verify information through a third party and if third party verification is not available, to explain why.

960.261: Restrictions on evictions of families based on income.

Subpart D: Elderly and Disabled Families – Preference in Mixed Population Projects

960.401: Preference for elderly families and disabled families for admissions to mixed population public housing projects.

960.403: This subpart applies to all dwelling units in mixed populations projects or portions of mixed population public housing projects

960.407: PHA must give preference to elderly and disabled families equally in determining priority for admission to mixed population developments. The PHA can not establish a limit on the number of elderly or disabled families who may accept an offer. The PHA must first offer units that have special accessibility features for persons with disabilities to a families who include persons with disabilities who require the accessibility feature of such units.

Subpart E: Occupancy by Over-income Families and Police Officers

960.503: A PHA that owns or operates fewer than 250 public housing units may lease a public housing to an over-income family. Description of requirements.

960.505: A police officer, not otherwise eligible, may be allowed to reside in a public housing unit to increase security for the residents. The PHA annual plan or supporting documents must include the number, location, the terms and conditions of their tenancies and a statement that such occupancy is needed to increase security.

Subpart F: Community Service

960.600: PHAs and residents must comply with the community service or self-sufficiency work activities beginning with the PHA fiscal year that commences on or after October 1, 2000.

960.601: Definitions: Community service, Exempt individual, Service requirements, and Family violation of service requirements.

960.605: PHA must develop a local policy for administration of the community service and economic self-sufficient requirements.

960.607: How the community service provisions are to be administered.

960.609: PHA may not substitute service requirements performed by residents for work ordinarily performed by PHA employees.

Subpart G: Pets

960.701: Pet ownership by residents in public housing in accordance with section 31 of the United States Housing Act of 1937.

960.703: This subpart applies to terms defined in section 3(b) of the United States Housing Act of 1937, except that such term does not include public housing developments for the elderly or persons with disability.

960.705: This subpart does not apply to animals that assist, support, or provide service to persons with disabilities.

960.707: Pet ownership conditions, reasonable requirements, policy restriction, and the pet deposit terms. The PHA's pet policies must be described in the annual plan beginning with the PHA fiscal years that commence on or after January 1, 2001.

Part 965: PHA-Owned or Leased Projects—General Provisions

965.701: The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, L, and R apply to this program.

Part 966: Lease and Grievance Procedures

Subpart A--Dwelling Leases, Procedures, and Requirements

966.1: Prescribes the provisions that shall be incorporated in leases by public housing agencies (PHA) for public housing units.

966.2: Definitions

966.3: The PHA will give at least a 30 day notice to tenants and resident organizations to provide written comments to the changes proposed to the lease by the PHA. The comments shall be considered by the PHA before formal adoption of any new lease form.

966.4: Required lease provisions: Parties, Dwelling unit and Term; Payment due under the lease; Redetermination of rent and family composition; Tenant's right to use and occupancy; PHA's obligations; Tenant's obligations; Tenant maintenance; Defects hazardous to life, health or safety; Pre-occupancy and pre-termination inspections; Entry of a dwelling unit during tenancy; Notice procedures; Termination of tenancy and evictions; Termination of tenancy for criminal activity or alcohol abuse; Right to examine PHA documents before hearing or trial; Grievance procedures; Provisions for modifications; and Signature clause.

966.5: Schedules of special charges for services, repairs and utilities and rules and regulations incorporated in the lease by reference shall be publicly in Project Office and furnished to applicants and tenants on request.

966.6: List of prohibited lease provisions: Confession of judgment; Distraint for rent or other charges; Exculpatory clauses; Waiver of legal Notice by tenant prior to actions for eviction of money judgments; Waiver of legal proceedings; Waiver of jury trial; Waiver of right to appeal judicial error in legal proceeding; and Tenant chargeable with cost of legal actions regardless of outcome.

966.7: For all aspects of the lease and grievance procedures, a disabled person shall be provided reasonable accommodation so they have the same opportunity to use and occupy a unit as a non-disabled person. A notice to each tenant shall be provided stating that at any time a tenant can request reasonable accommodations for a disabled member of the household.

Subpart B—Grievance Procedures and Requirements

966.50: Requirements, standards, and criteria for a grievance procedure to be established and implemented by the PHA assuring tenant an opportunity for a hearing if a tenant disputes any PHA action or failure to act involving the tenant's or PHA regulation that adversely affects the individual tenant's rights, duties, welfare, or status.

966.51: PHA grievance procedure shall be applicable to all individual grievances as defined in 966.53 between the tenant and the PHA. Grievance procedure is not applicable to disputes between tenant not involving the PHA or to class grievances.

966.52: Each PHA shall adopt a grievance procedure, incorporated by reference in all tenant dwelling leases, at least a 30 day notice shall be given to tenants and resident organizations to provide written comments to the changes proposed to the grievance procedure by the PHA, and a copy of the grievance procedure shall be given to each tenant and resident organization.

966.53: Definitions: Grievance, Complainant, Elements of due process, Hearing officer, Hearing panel, Tenant, and Resident organization.

966.54: Informal settlement of a grievance may be granted without a hearing when it is personally presented to a PHA office or to the office of the project in which the complainant resides. Written documentation of the informal discussion and settlement shall be produced. A copy of this documentation must be given to the tenant and another copy must be placed in the PHA's tenant file.

966.55: Process to request a hearing, selection of hearing officer or panel, failure to request a hearing, hearing prerequisites, escrow deposit, scheduling of hearings, and expedited grievance procedures.

966.56: Procedures governing the hearing.

966.57: This section states that a hearing officer or panel shall prepare a written decision with the reasons set forth for the decision and it shall be binding on the PHA which shall take all action or refrain from taking action necessary to carry out the decision.

If the decision is in favor of the PHA or which denies the relief requested by the compliant in whole or part shall not constitute a waiver of, nor affect in any matter whatever, any rights the complaint may have to a trial *de novo* or judicial review in any judicial proceeding.

Appendix II DEFINITIONS OF TERMS

1. Accessible dwelling units -- when used with respect to the design, construction or alteration of an individual dwelling unit, means that the unit is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical disabilities. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in **24 CFR § 8.32 & § 40** [the Uniform Federal Accessibility Standards] is “accessible” within the meaning of this paragraph. When an individual dwelling unit in an existing facility is being modified for use by a specific individual, the unit will not be deemed accessible, even though it meets the standards that address the impairment of that individual, unless it also meets the UFAS standards.
1. Accessible Facility - means all or any portion of a facility *other than an individual dwelling unit* used by individuals with physical disabilities. [**24 CFR § 8.21**]
2. Accessible Route - For persons with a mobility impairment, a continuous unobstructed path that complies with space and reach requirements of the Uniform Federal Accessibility Standards. For persons with hearing or vision impairments, the route need not comply with requirements specific to mobility. [**24 CFR § 8.3 & § 40.3.5**]
3. Adaptability - Ability to change certain elements in a dwelling unit to accommodate the needs of disabled and non-disabled persons; or ability to meet the needs of persons with different types & degrees of disability. [**24 CFR § 8.3 & § 40.3.5**]
4. Adult: A Person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State or tribal law.
5. Alteration - any change in a facility or its permanent fixtures or equipment. It does not include: normal maintenance or repairs, reroofing, interior decoration or changes to mechanical systems. [**24 CFR § 8.3 & § 8.23 (b)**]
6. Applicant - a person or a family that has applied for admission to housing.
7. Area of Operation - The jurisdiction of the PHA as described in applicable State law and the PHA’s Articles of Incorporation.
8. Assets - Assets means “cash (including checking accounts), stocks, bonds, savings, equity in real property, or the cash value of life insurance policies. Assets do not include the value of personal property such as furniture, automobiles and household effects or the value of business assets.” IMPORTANT: See the definition of Net Family Assets, for assets used to compute annual income. (See **24 CFR § 5.603** for definition of Net Family Assets)
9. Auxiliary Aids - means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of programs or activities. [**24 CFR § 8.3**]
10. Care Attendant - a person that regularly visits the unit of a PHA resident to provide supportive or medical services. Care attendants are not live-in aides, since they have their own place of residence (and if requested by PHA must demonstrate separate residence) and do not live in the public housing unit. Care attendants have no rights of tenancy.
11. Co-head of Household - a household where two persons are held responsible and accountable for the family, and where each co-head contributes to the rent.
12. Covered Person – For the purposes of screening and terminating tenancy for criminal activity, a tenant, any member of the tenant’s household, a guest, or another person under the tenant’s control.

13. Dependent - A member of the household, other than head, spouse, sole member, foster child, or Live-in Aide, who is under 18 years of age, or 18 years of age or older and disabled, or a full-time student, and qualifies for a \$480 deduction when computing income-based rent. [24 CFR § 5.603]
14. Designated Family - means the category of family for whom PHA elects (subject to HUD approval) to designate a project (e.g. elderly family in a project designated for elderly families) in accordance with the 1992 Housing Act. (PL 96-120)
15. Designated housing (or designated project) - a project(s), or portion of a project(s) designated for elderly only or for disabled families only in accordance with PL 96-106.
16. Disabled Family - A family whose head, spouse or sole member is a person with disabilities. (Person with disabilities is defined later in this section.) The term includes two or more persons with disabilities living together, and one or more such persons living with one or more persons including live-in aides determined to be essential to the care and well-being of the person or persons with disabilities. A disabled family may include persons with disabilities who are elderly. [24 CFR § 5.403]
17. Displaced Person - A person displaced by government action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise recognized pursuant to Federal disaster relief laws. This definition is used for eligibility determinations only. It should not be confused with the former Federal preference for involuntary displacement. [(42 USC 1437a(b)(3)]
18. Divestiture Income - Imputed income from assets, including business assets, disposed of by applicant or resident in the last two years at less than fair market value. (See the definition of Net Family Assets [24 CFR § 5.603] in this section.)
19. Drug – A controlled substance as defined in the Controlled Substances Act. [24 CFR § 5.100]
20. Drug-related Criminal Activity – The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell distribute or use the drug. [24 CFR § 5.100]
21. Elderly Family - A family whose head or spouse (or sole member) is at least 62 years of age. It may include two or more elderly persons living together, and one or more such persons living with one or more persons, including live-in aides, determined to be essential to the care and well-being of the elderly person or persons. An elderly family may include elderly persons with disabilities and other family members who are not elderly. [24 CFR § 5.403]
22. Elderly Person - A person who is at least 62 years of age. [42 USC 1437a(b)(3)]
23. Extremely Low Income Family – A Family whose Annual Income is equal to or less than 30% of Area Median Income, as published by HUD.
24. Family –
 - Two or more persons (with or without children) regularly living together, related by blood, marriage, adoption, guardianship or operation of law who will live together in PHA housing; OR
 - two or more persons who are not so related, but are regularly living together, can verify shared income or resources who will live together in PHA housing.

The term family also includes the following terms defined in this Section:

 - Elderly family
 - Near elderly family
 - Disabled family
 - Displaced person

- Single person
- Remaining member of a tenant family,
- a foster care arrangement, or a kinship care arrangement

Other persons, including members temporarily absent (e.g. a child temporarily placed in foster care or a student temporarily away at college), may be considered a part of the applicant family’s household if they are living or will live regularly with the family. [24 CFR §§ 5 and 960]

- Live-in Aides may also be considered part of the applicant family’s household. However, live-in aides are not *family* members and have no rights of tenancy or continued occupancy.
 - Foster Care Arrangements include situations in which the family is caring for a foster adult, child or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency. For purposes of continued occupancy: the term family also includes the remaining member of a resident family with the capacity to execute a lease.
25. Full-Time Student - A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. Educational institution shall include but not be limited to: college, university, secondary school, vocational school or trade school [24 CFR 5.603].
 26. Guest – For the purposes of determining whether an individual’s criminal activity is the responsibility of the tenant, a guest is a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of the lease apply to a guest as so defined.
 27. Head of the Household - The family member (identified by the family) who is held responsible and accountable for the family.
 28. Household – The family and a PHA-approved Live-in Aide
 29. Individual with Disabilities, Section 504 definition [24 CFR § 8.3]

Section 504 definitions of Individual with Disabilities and Qualified Individual with Disabilities are not the definitions used to determine program eligibility. Instead, use the definition of person with disabilities as defined later in this section. Note: the Section 504, Fair Housing, and Americans with Disabilities Act (ADA) definitions are similar. ADA uses the term “individual with a disability”. Individual with disabilities means any person who has:

- (a) A physical, mental or emotional impairment that:
 - substantially limits one or more major life activities;
 - has a record of such an impairment;
 - or is regarded as having such an impairment.
- (b) For purposes of housing programs, the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.
- (c) Definitional elements:

“physical or mental impairment” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

“Has a record of such an impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” means has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation; or

Has a physical or mental impairment that substantially limits one or more major life activities only as result of the attitudes of others toward such impairment; or

Has none of the impairments defined in this section but is treated by a recipient as having such an impairment.

NOTE: A person would be covered under the first item if PHA refused to serve the person because of a perceived impairment and thus “treats” the person in accordance with this perception. The last two items cover persons who are denied the services or benefits of PHA’s housing program because of myths, fears, and stereotypes associated with the disability or perceived disability.

- (d) The 504 definition of disability does not include homosexuality, bisexuality, or transvestitism. Note: These characteristics do not disqualify an otherwise disabled applicant/resident from being covered.

The 504 definition of individual with disabilities is a civil rights definition. To be considered for admission to public housing a person must meet the program definition of person with disabilities found in this section.

- 30. Kinship Care - an arrangement in which a relative or non-relative becomes the primary caregiver for a child or children but is not the biological parent of the child or children. The primary caregiver need not have legal custody of such child or children to be a kinship caregiver under this definition. (Definition provided by the Kinship Care Project, National Association for Public Interest Law)
- 31. Live-in Aide - A person who resides with an elderly person(s), near elderly person(s) or person(s) with disabilities and who: (a) is determined by PHA to be essential to the care and well being of the person(s); (b) is not obligated to support the family member; and (c) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

PHA policy on Live-in Aides stipulates that:

- (a) Before a Live-in Aide may be moved into a unit, a third-party verification must be supplied that establishes the need for such care and the fact that the live-in aide is qualified to provide such care;
- (b) Move-in of a Live-in Aide must not result in overcrowding of the existing unit according to the maximum-number-of-persons-per-unit standard (although, a reasonable accommodation for a resident with a disability may be to move the family to a larger unit);
- (c) Live-in Aides have no right to the unit as a remaining member of a resident family;
- (d) Relatives who satisfy the definitions and stipulations above may qualify as Live-in Aides, but only if they sign a statement prior to moving in relinquishing all rights to the unit as the remaining member of a resident family;
- (e) A Live-in aide is a single person;
- (f) A Live-in Aide will be required to meet PHA's screening requirements with respect to past behavior especially:

A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at present or prior residences that may adversely affect the health, safety, or welfare of other tenants or neighbors;

Criminal activity such as crimes of physical violence to persons or property and other criminal acts including drug-related criminal activity that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or the development; and

A record of eviction from housing or termination from residential programs.

- 32. Low-Income Household - A family whose annual income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller and larger families [42 USC 1437a(b0)]
- 34. Medical Expense Allowance - For purposes of calculating adjusted income for elderly or disabled families only, medical expenses mean the medical expense in excess of 3% of Annual Income, where these expenses are not compensated for or covered by insurance. [24 CFR § 5.603].
- 35. Minor - A minor is a person less than 18 years of age. An unborn child will not be considered as a minor. (See definition of dependent.) Some minors are permitted to execute contracts, provided a court declares them "emancipated".
- 36. Mixed Population Project - means a public housing project for elderly and disabled families. The PHA is not required to designate this type of project under the Extension Act. (PIH Notice 97-12)
- 37. Multifamily Housing Project - For purposes of Section 504, means a project containing five or more dwelling units. [24 CFR § 8.3]
- 38. Near-elderly Family - means a family whose head, spouse, or sole member is a near-elderly person (at least 50 but less than 62 years of age), who may be a person with a disability. The term includes two or more near-elderly persons living together, and one or more such persons living with one or more persons who are determined to be essential to the care or well-being of the near-elderly person or persons. A near-elderly family may include other family members who are not near-elderly. [24 CFR § 5.403]
- 39. Near-elderly Person - means a person who is at least 50 years of age but below 62, who may be a person with a disability [42 USC 1437a(b)(3)]

40. Net Family Assets - The net cash value, after deducting reasonable costs that would be incurred in disposing of: [24 CFR § 5.603]

- (a) Real property (land, houses, mobile homes)
- (b) Savings (CDs, IRA or KEOGH accounts, checking and savings accounts, precious metals)
- (c) Cash value of whole life insurance policies
- (d) Stocks and bonds (mutual funds, corporate bonds, savings bonds)
- (e) Other forms of capital investments (business equipment)

Net cash value is determined by subtracting the reasonable costs likely to be incurred in selling or disposing of an asset from the market value of the asset. Examples of such costs are: brokerage or legal fees, settlement costs for real property, or penalties for withdrawing saving funds before maturity.

Net Family assets also include the amount in excess of any consideration received for assets disposed of by an applicant or resident for less than fair market value during the two years preceding the date of the initial certification or reexamination. This does not apply to assets transferred as the result of a foreclosure or bankruptcy sale.

In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be less than fair market value if the applicant or resident receives important considerations not measurable in dollar terms [24 CFR §5.603(b)(3)].

41. Other Person Under the Tenant's Control – 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 (e.g. the Pizza Delivery person).

42. Person with Disabilities¹ [42 USC 1437a(b)(3)] means a person² who —

- (a) Has a disability as defined in Section 223 of the Social Security Act (42 USC 423); or,
- (b) Has a physical, mental or emotional impairment that:
 - Is expected to be of long continued and indefinite duration;
 - Substantially impedes his/her ability to live independently; and,
 - Is of such nature that such disability could be improved by more suitable housing conditions; or,
- (c) Has a developmental disability as defined in Section 102 (5) (b) of the Developmental Disabilities Assistance and Bill of Rights Act [42 USC 6001 (5)].

43. Portion of Project - includes, one or more buildings in a multi-building project; one or more floors of a project or projects; a certain number of dwelling units in a project or projects. [24 CFR § 945.105]

44. Project, Section 504 - means the whole of one or more residential structures & appurtenant structures, equipment, roads, walks, & parking lots that are covered by a single contract for Federal financial

¹ NOTE: this is the program definition for public housing. The 504 definition does not supersede this definition for eligibility or admission. [24 CFR 8.4 (c) (2)]

² A person with disabilities may be a child.

assistance or application for assistance, or are treated as a whole for processing purposes, whether or not located on a common site. [24 CFR § 8.3]

45. Premises – The building or complex or development in which the public housing dwelling is located, including common areas and grounds.
46. Qualified Individual with Disabilities, Section 504 - means an individual with disabilities who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the PHA can demonstrate would result in a fundamental alteration in its nature.
 - (a) Essential eligibility requirements include: ...stated eligibility requirements such as income as well as other explicit or implicit requirements inherent in the nature of the program or activity, such as requirements that an occupant of multifamily housing be capable of meeting the recipient's selection criteria and be capable of complying with all obligations of occupancy with or without supportive services provided by persons other than the PHA.
47. Single Person - A person who is not an elderly person, a person with disabilities, a displaced person, or the remaining member of a resident family.
48. Spouse - Spouse means the husband or wife of the head of the household.
49. Tenant Rent - The amount payable monthly by the Family as rent to PHA. Where all utilities (except telephone) and other essential housing services are supplied by the Authority, Tenant Rent equals Total Tenant Payment. Where some or all utilities (except telephone) and other essential housing services are not supplied by the PHA and the cost thereof is not included in the amount paid as rent, Tenant Rent equals Total Tenant Payment less the Utility Allowance [24 CFR § 5.603].
50. Total Tenant Payment (TTP) - The TTP, or income-based rent, is calculated using the following formula:

The greatest of 30% of the monthly Adjusted Income (as defined in these policies) or 10% of the monthly Annual Income (as defined in these policies), or the Welfare Rent if applicable, but never less than the Minimum Rent or greater than the Ceiling Rent, if any. If the Resident pays and of the utilities directly to the utility supplier, the amount of the Utility Allowance is deducted from the TTP. [24 CFR §5.613] See the definition for Tenant Rent.
51. Uniform Federal Accessibility Standards - Standards for the design, construction, and alteration of publicly owned residential structures to insure that physically disabled persons will have ready access to and use of such structures. The standards are set forth in **Appendix A to 24 CFR Part 40. See cross reference to UFAS in 504 regulations, 24 CFR § 8.32 (a).**
52. Utilities - Utilities means water, electricity, gas, other heating, refrigeration and cooking fuels, trash collection, and sewerage services. Telephone service is not included as a utility [24 CFR § 990.102].
53. Upward Mobility Preference: An admissions preference granted when:
 - (a) A family can verify employment of an adult member:
 - (i) Employment at the time of the offer — To receive this preference the applicant family must have at least one family member, age 18 or older, employed at the time of PHA's offer of housing. Employment at the time of the offer must be for the 90 day period immediately prior to the offer of housing and provide a minimum of 20 hours of work per week for the family member claiming the preference.

(ii) Employment periods may be interrupted, but to claim the preference, a family must have an employed family member prior to the actual offer of housing as described above.

(iii) A family member that leaves a job will be asked to document the reasons for the termination. Someone who quits work after receiving benefit of the preference (as opposed to layoff, or taking a new job) will be considered to have misrepresented the facts to PHA and will have their assistance terminated.

(iv) The amount earned shall not be a factor in granting this local preference. This local preference shall also be available to a family if the head, spouse, or sole member is 62 or older, or is receiving social security disability, or SSI disability benefits, or any other payments based on the individual's inability to work. **[Required, 24 CFR 960.206 (b) (2)]**

(b) A family can verify participation in a job-training program or graduation from such a program. This includes programs of job training, skills training or education accepted or mandated by the Temporary Assistance to Needy Families program;

The family must notify PHA if it enters such a program while on the waiting list and provide documentation of participation to PHA. PHA will not grant this preference if the family fails to provide notice. Notice and verification of the preference claim must be received prior to the offer of housing. To claim this preference applicants must be in good standing with respect to attendance and program rules.

54. Utility Reimbursement - Funds that are reimbursed to the resident or, with the resident's permission, the utility company on the resident's behalf if the utility allowance exceeds the Total Tenant Payment. Tenants who choose to pay flat rents do not receive a utility reimbursement, since the value of the flat rent takes into account any utilities paid by the tenant.
55. Very Low-Income Family - Very low-income family means a family whose Annual Income does not exceed 50 percent of the median Annual Income for the area, with adjustments for smaller and larger families, as determined by the Secretary of Housing and Urban Development **[42 USC 1437a(b)]**.
56. Violent Criminal Activity – 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.