



PUBLIC HOUSING PROGRAM ADMISSIONS AND CONTINUED OCCUPANCY POLICY

Amended _____, 2024

TABLE OF CONTENTS

CHAPTER 1 – STATEMENT OF POLICIES AND OBJECTIVES.....	9
INTRODUCTION.....	9
1.A. SCCHA MISSION STATEMENT.....	9
1.B. LOCAL OBJECTIVES.....	9
1.C. FAMILY OUTREACH	9
1.D. POSTING OF REQUIRED INFORMATION	10
1.E. RECORDS MANAGEMENT.....	10
1.F. PRIVACY ACT REQUIREMENTS.....	10
1.G. VIOLENCE AGAINST WOMEN ACT.....	11
1.H. VAWA CONFIDENTIALITY	11
CHAPTER 2 - FAIR HOUSING AND EQUAL OPPORTUNITY.....	12
PART I: NONDISCRIMINATION	12
2-I.A. INTRODUCTION	12
2-I.B. NONDISCRIMINATION	12
PART II: POLICIES RELATED TO PERSON WITH DISABILITIES.....	13
2-II.A. OVERVIEW	13
2-II.B. TYPES OF REASONABLE ACCOMMODATIONS	13
2-II.C. REQUEST FOR AN ACCOMMODATION	14
2-II.D. VERIFICATION OF DISABILITY	14
2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION	15
2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS	15
2-II.G. PHYSICAL ACCESSIBILITY.....	16
PART III: LIMITED ENGLISH PROFICIENCY (LEP) TRANSLATION SERVICES.....	16
2-III.A. OVERVIEW	16
CHAPTER 3 – APPLICATIONS, WAITING LIST AND TENANT SELECTION	18
INTRODUCTION.....	18
PART I: THE APPLICATION PROCESS.....	18
3-I.A. OVERVIEW	18
3-I.B. PLACEMENT ON THE WAITING LIST	18
PART II: MANAGING THE WAITING LIST	19
3-II.A. OVERVIEW	19
3-II.B. ORGANIZATION OF THE WAITING LIST	20

3-II.C. OPENING AND CLOSING THE WAITING LIST.....	20
3-II.D. PURGING THE WAITING LIST	20
PART III: TENANT SELECTION	21
3-III.A. OVERVIEW	21
3-III.B. SELECTING FAMILIES FROM THE WAITING LIST	21
3-III.C. APPLICATION INTERVIEW	22
3-III.D. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY	22
CHAPTER 4 - ELIGIBILITY AND SUITABILITY FOR ADMISSION TO PUBLIC HOUSING	23
INTRODUCTION.....	23
PART I: FAMILY AND HOUSEHOLD MEMBERS.....	23
4-I.A. OVERVIEW	23
4-I.B. FAMILY AND HOUSEHOLD	23
4-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF RESIDENT FAMILY	24
4-I.D. HEAD OF HOUSEHOLD.....	25
4-I.E. SPOUSE, COHEAD, AND OTHER ADULT	25
4-I.F. DEPENDENTS AND MINORS	25
4-I.G. FULL-TIME STUDENT	26
4-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY	26
4-I.I. GUESTS	27
4-I.J. FOSTER CHILDREN AND FOSTER ADULTS.....	27
4-I.K. ABSENT FAMILY MEMBERS.....	27
4-I.L. LIVE-IN AIDE	28
PART II: ELIGIBILITY CRITERIA.....	29
4-II.A. INCOME LIMITS.....	29
4-II.B. SOCIAL SECURITY NUMBERS	29
4-II.C. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS	30
4-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION	31
PART III: DENIAL OF ASSISTANCE	31
4-III.A. SCREENING	31
4-III.B MANDATORY DENIAL OF ASSISTANCE	34
4-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS.....	34
4-III.D. ADDITIONAL PROHIBITIONS	35
4-III.E. OTHER SUITABILITY CIRCUMSTANCE	37

4-III.F. PROHIBITED CRITERIA FOR DENIAL OF ADMISSION	38
4-III.G. REMOVAL OF A FAMILY MEMBER’S NAME FROM THE APPLICATION	38
4-III.H. REASONABLE ACCOMMODATION	38
CHAPTER 5 – OCCUPANCY STANDARDS & UNIT OFFERS	40
INTRODUCTION.....	40
PART I: OCCUPANCY STANDARDS	40
5-I.A. OVERVIEW	40
5-I.B. DETERMINING UNIT SIZE	40
5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS	41
PART II: UNIT OFFERS.....	42
5.II.A. OVERVIEW	42
5-II.B. NUMBER OF OFFERS.....	42
5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL.....	42
5-II.D. REFUSALS OF UNIT OFFER	42
5-II.E. ACCESSIBLE UNITS.....	43
CHAPTER 6 – INCOME AND RENT DETERMINATIONS	44
INTRODUCTION.....	44
PART I: ANNUAL INCOME	44
6-I.A. DEFINITION	44
6-I.B. HOUSEHOLD COMPOSITION AND INCOME.....	45
6-I.C. CALCULATING ANNUAL INCOME	47
6-I.D. EARNED INCOME	48
6-I.E. BUSINESS INCOME	50
6-I.F. STUDENT FINANCIAL ASSISTANCE.....	52
6-I.G. PERIODIC PAYMENTS.....	52
6-I.H. NONRECURRING INCOME	54
6-I.I. WELFARE ASSISTANCE	55
6-I.J. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME	57
6-I.K. EARNED INCOME DISALLOWANCE.....	60
PART II: ASSETS	62
6-II.A. OVERVIEW	62
6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE.....	64
6-II.C. ASSET INCLUSIONS AND EXCLUSIONS.....	65

6-II.D. DETERMINING INCOME FROM ASSETS.....	73
PART III: ADJUSTED INCOME.....	74
6-III.A. OVERVIEW	74
6-III.B. DEPENDENT DEDUCTION	75
6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION	75
6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION	75
6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION.....	76
6-III.F. CHILD CARE EXPENSE DEDUCTION	78
6-III.G. HARDSHIP EXEMPTIONS	80
PART IV: CALCULATING RENT.....	83
6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS.....	83
6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT	84
6-IV.C. UTILITY ALLOWANCES.....	86
6-IV.D. PRORATED RENT FOR MIXED FAMILIES	86
CHAPTER 7 – VERIFICATION	87
INTRODUCTION.....	87
PART I: GENERAL VERIFICATION REQUIREMENTS.....	87
7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION.....	87
7-I.B. HIERACHY OF VERIFICATION REQUIREMENTS	89
7-I.C. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV).....	90
7-I.D. LEVEL 4 VERIFICATION: TENANT-PROVIDED VERIFICATION.....	90
7-I.E. LEVEL 3 VERIFICATION: WRITTEN THIRD-PARTY VERIFICATION FORM	91
7-I.F. LEVEL 2 VERIFICATION: ORAL THIRD-PARTY VERIFICATION	92
7-I.G. LEVEL 1 VERIFICATION: SELF-CERTIFICATION	92
PART II: VERIFYING FAMILY INFORMATION	93
7-II.A. VERIFICATION OF LEGAL IDENTITY.....	93
7-II.B. SOCIAL SECURITY NUMBERS.....	93
7-II.C. VERIFICATION OF AGE.....	94
7-II.D. FAMILY RELATIONSHIPS.....	94
7-II.E. VERIFICATION OF STUDENT STATUS	95
7-II.F. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS.....	96
PART III: VERIFYING INCOME AND ASSETS.....	96
7-III.A. EARNED INCOME	96

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME.....	97
7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS	97
7-III.D. ALIMONY OR CHILD SUPPORT	98
7-III.E. NONRECURRING INCOME	98
7-III.F. ASSETS AND INCOME FROM ASSETS	98
7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE	100
7-III.H. NET INCOME FROM RENTAL PROPERTY	100
7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS.....	100
7-III.J. RETIREMENT ACCOUNTS	100
7-III.K. INCOME FROM EXCLUDED SOURCES	101
EXHIBITS.....	101
CHAPTER 8 - LEASING AND INSPECTIONS	103
INTRODUCTION.....	103
PART I: LEASING	103
8-I.A. LEASING ORIENTATION.....	103
8-I.B. TERM OF THE LEASE.....	104
8-I.C. EXECUTION OF THE LEASE	104
8-I.D. MODIFICATIONS TO THE LEASE	104
8-I.E. SECURITY DEPOSITS	105
8-I.F. PAYMENTS UNDER THE LEASE	106
PART II: INSPECTIONS.....	107
8-II.A. OVERVIEW	107
8-II.B. TYPES OF INSPECTIONS.....	107
8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS.....	108
8-II.D. INSPECTION RESULTS	109
CHAPTER 9 - REEXAMINATIONS.....	111
INTRODUCTION.....	111
PART I: REGULARLY SCHEDULED REEXAMINATIONS.....	111
9-I.A. OVERVIEW	111
9-I.B. SCHEDULING REGULAR REEXAMINATIONS.....	111
9-I.C. CONDUCTING REGULARLY SCHEDULED REEXAMINATIONS.....	112
9-I.D. EFFECTIVE DATES.....	113
PART II: INTERIM REEXAMINATIONS.....	113

9-II.A. OVERVIEW	113
9-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION	113
9-II.C. CHANGES AFFECTING INCOME OR EXPENSES	114
9-II.D. PROCESSING THE INTERIM REEXAMINATION	117
9-II.E. EFFECTIVE DATES	117
PART III: RECALCULATING TENANT RENT	118
9-III.A. OVERVIEW	118
9-III.B. CHANGES IN UTILITY ALLOWANCES.....	118
9-III.C. NOTIFICATION OF NEW TENANT RENT	118
9-III.D. DISCREPANCIES.....	119
CHAPTER 10 – ASSISTANCE ANIMALS	120
INTRODUCTION.....	120
PART I: ASSISTANCE ANIMALS.....	120
10-I.A. OVERVIEW	120
10-I.B. APPROVAL OF ASSISTANCE ANIMALS	120
10-I.C. CARE AND HANDLING	121
CHAPTER 11 – COMMUNITY SERVICES	122
INTRODUCTION.....	122
PART I: COMMUNITY SERVICE REQUIREMENT.....	122
11-I.A. REQUIREMENTS.....	122
11-I.B. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE	123
CHAPTER 12 - LEASE TERMINATIONS.....	124
INTRODUCTION.....	124
PART I: TERMINATION BY TENANT.....	124
12-I.A. TENANT CHOOSES TO TERMINATE THE LEASE.....	124
PART II: TERMINATION BY SCCHA - MANDATORY.....	124
12-II.A. OVERVIEW	124
12-II.B. FAILURE TO ACCEPT SCCHA’S OFFER OF A LEASE REVISION	125
12-II.C. METHAMPHETAMINE CONVICTION.....	125
12-II.D. LIFETIME REGISTERED SEX OFFENDERS.....	125
12-II.E. DEATH OF A SOLE FAMILY MEMBER	125
12-II.F. OVER-INCOME FAMILIES.....	125
PART III: TERMINATION BY SCCHA – OTHER AUTHORIZED REASONS.....	128

12-III.A. LEASE PROVISIONS.....	128
12-III.B. TERMINATION OF ASSISTANCE BASED ON ASSETS	131
12-III.C. ALTERNATIVES TO TERMINATION OF TENANCY.....	132
12-III.D. CRITERIA FOR DECIDING TO TERMINATE TENANCY.....	132
12-III.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT.....	134
PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING	136
12-IV.A. LEASE TERMINATION NOTICE	136
12-IV.B. EVICTION	137
12-IV.C. RECORD KEEPING.....	138
CHAPTER 13 – GRIEVANCES AND APPEALS	139
INTRODUCTION.....	139
PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS.....	139
13-I.A. OVERVIEW	139
13-I.B. INFORMAL HEARING PROCESS.....	139
PART II: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS.....	140
13-II.A. OVERVIEW	140
13-II.B. DEFINITIONS	140
13-II.C. PROCEDURES TO OBTAIN A HEARING.....	141
13-II.D. SELECTION OF HEARING OFFICER/PANEL	141
13-II.E. PROCEDURES GOVERNING THE HEARING	141

CHAPTER 1 – STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Santa Clara County Housing Authority (SCCHA) is responsible for operating the public housing program (Section 9) in a manner that ensures equal access and opportunity, provides safe and decent housing and meets all the needs of the residents for whom the housing was developed to greatest extent possible.

The SCCHA must ensure compliance with federal laws, regulations, and notices and establish policy and procedures to clarify federal requirements and ensure consistency in program operation. All applicable Federal, State and local laws, including Fair Housing Laws and regulations, also apply.

The Santa Clara County Housing Authority authorized selective Management Companies to provide property management and operating services in accordance with the Owner-approved Management Plan and applicable regulatory agreements.

1.A. SCCHA MISSION STATEMENT

SCCHA's mission is to provide and inspire affordable housing solutions to enable low-income people in Santa Clara County to achieve financial stability and self-reliance.

1.B. LOCAL OBJECTIVES

The ACOP is designed to demonstrate that the SCCHA is managing its program in a manner that reflects its commitment to improving the quality of housing available to its public.

The ACOP is designed to achieve the following objectives:

- To provide improved living conditions for very-low and low-income families, with their help and cooperation, while maintaining their rent payments at an affordable level.
- To operate a public housing authority that provides decent, safe and sanitary housing within a suitable living environment for residents and their families, with their help and cooperation.
- To provide opportunities for upward mobility for families who desire to achieve self-sufficiency.

1.C. FAMILY OUTREACH

[24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

SCCHA will publicize and disseminate information to make known the availability of housing units and housing-related services for very low-income families on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conduction outreach to ensure a sufficient number of applicants.

1.D. POSTING OF REQUIRED INFORMATION

SCCHA will maintain in the offsite management office bulletin board and/or binder in a conspicuous area of the management office which will contain HUD, state or other federal required documents including, but not limited to:

- Current schedule of routine maintenance changes
- A Fair Housing Poster
- An Equal Opportunity in Employment poster
- Required public notices
- Utility Allowance Survey Results
- Violence Against Women Act (VAWA) Policy
- Admissions and Continued Occupancy Policy (ACOP)
- Limited English Proficiency (LEP)
- Resident Lease Agreement
- California Proposition 65 Posting
- Grievance Procedure
- Income Limits for Admission

1.E. RECORDS MANAGEMENT

Applicant and participant files and information must be maintained in accordance with SCCHA's Record Retention and Disposition Policy and regulatory requirements. All applicant and participant information will be kept in a secure location and access will be limited to authorized SCCHA staff.

1.F. PRIVACY ACT REQUIREMENTS

[24 CFR 5.212 and Form-9886]

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions SCCHA may release the information collected.

Criminal Records

SCCHA may only disclose the criminal conviction records which SCCHA receives from a law enforcement agency to officers or employees of SCCHA, or to authorized representatives of SCCHA who have a job-related need to have access to the information.

SCCHA must establish and implement a system of records management that ensures that any criminal record received by SCCHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished.

SCCHA must establish and implement a system of records management that ensures that any sex offender registration information received by SCCHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished

Medical/Disability Records

SCCHA is not permitted to inquire about the nature or extent of a person's disability. **SCCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition.**

1.G. VIOLENCE AGAINST WOMEN ACT

SCCHA's policy is to comply with the Violence against Women Reauthorized Act of 2013 (VAWA). SCCHA shall not discriminate against an applicant, or public housing resident based on the rights or privileges provided under the VAWA.

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving housing assistance. If state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

1.H. VAWA CONFIDENTIALITY

All VAWA information provided to the SCCHA, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of sex, gender identity, or sexual orientation, shall be retained in confidence, and will not be entered into any shared database or provided to any related entity, except to the extent that disclosure is:

- Requested or consented to by the individual in writing
- Required for use in an eviction proceeding under subsection (1)(5) or (6) of Public Law 109-162 referencing amendments made to Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d)
- Otherwise required by applicable law.

CHAPTER 2 - FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

It is the policy of SCCHA to comply fully with all Federal, State, and local nondiscrimination laws and with rules and regulations governing Fair Housing and Equal Opportunity in housing and employment. SCCHA will comply with all laws relating to Civil Rights, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Violence against Women Reauthorized Act of 2013 (VAWA)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012 [and further clarified in Notice PIH 2014-20](#).
- Any applicable State laws or local ordinances and any legislation protecting individual rights of residents, applicants or staff that may subsequently be enacted

When more than one civil rights law applies to a situation, the laws will be read and applied together.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements can prohibit discrimination against additional classes of people.

SCCHA shall not discriminate on the basis of race, color, sex, religion, familial status, disability, national origin, marital status, gender identity, or sexual orientation in the leasing, rental, or other disposition of housing or related facilities.

Familial status included children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

SCCHA shall not, on account of race, color, sex, religion, familial status, disability, national origin, marital status, gender identity, or sexual orientation:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to lease housing suitable to its needs;

- Provide housing that is different from that provided to others;
- Subject a person to segregation or disparate treatment;
- Restrict a person’s access to any benefit enjoyed by others in connection with the housing program;
- Treat a person differently in determining eligibility or other requirements for admission;
- Deny a person access to the same level of services;
- Steer an applicant or resident toward or away from a particular area based on any of these factors;
- Discriminate against someone because they are related to or associated with a member of a protected class

Discrimination Complaints

If an applicant or resident family believes that any family member has been discriminated against by SCCHA, the family should advise the SCCHA. HUD requires SCCHA to make every reasonable attempt to determine whether the applicant’s or resident family’s assertions have merit and take any warranted corrective action.

- Applicants or resident families who believe that they have been subject to unlawful discrimination may notify SCCHA either orally or in writing
- SCCHA will attempt to remedy discrimination complaints made against the SCCHA
- SCCHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD’s Office of Fair Housing and Equal Opportunity (FHEO)

PART II: POLICIES RELATED TO PERSON WITH DISABILITIES

2-II.A. OVERVIEW

SCCHA policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. All requests for a reasonable accommodation will be verified so that SCCHA can properly accommodate the need presented by the disability.

An applicant or resident can contact the local property management office for request for accommodation for person with disabilities.

2-II.B. TYPES OF REASONABLE ACCOMMODATIONS

SCCHA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Providing “large-print” forms
- Conducting home visits
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building

- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing an SCCHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with SCCHA staff
- Displaying posters and other housing information in locations throughout SCCHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, SCCHA will treat the information as a request for a reasonable accommodation, even if no formal request is made.

The family must explain what type of accommodation is needed to provide the person with the disability full access to SCCHA programs and services. A request for an accommodation can be made at any time. SCCHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, SCCHA will consider the accommodation any time the family indicates that an accommodation is needed whether a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

Before providing an accommodation, SCCHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to SCCHA's programs and services.

If a person's disability is obvious or otherwise known to SCCHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required. If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to SCCHA, SCCHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

All information related to a person's disability will be treated as confidential information. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is

competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.

- SCCHA must request only information that is necessary to evaluate the disability-related need for the accommodation. SCCHA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file
- In the event that SCCHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, SCCHA will dispose of it in accordance with its record retention policy. In place of the information, SCCHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

SCCHA must approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability
- There is a disability-related need for the accommodation
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on SCCHA, or fundamentally alter the nature of SCCHA's operations

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of SCCHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability related needs.

If SCCHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of SCCHA's operations), SCCHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the housing program and without imposing an undue financial and administrative burden.

If SCCHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, SCCHA will notify the family in writing.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require SCCHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to SCCHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, SCCHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, text telephone display / teletype (TTD/TTY) communication will be available.

To meet the needs of persons with vision impairments, large-print versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with SCCHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

SCCHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

PART III: LIMITED ENGLISH PROFICIENCY (LEP) TRANSLATION SERVICES

2-III.A. OVERVIEW

Executive Order 13166 “Recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.”

SCCHA will take affirmation steps to ensure that all persons with limited English proficiency have equal access to the program. LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. These individuals will be referred to as persons with Limited English Proficiency (LEP). For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families.

Translation services will be provided by certified bilingual staff. When bilingual staff are not available, SCCHA will contract with outside translation services at no cost to the families.

Where LEP persons desire, they will be permitted to use at their own expense, a translator of their own choosing. The family-provided translator may be in place of or as a supplement to the free language services offered by SCCHA. The translator may be a family member or friend at least 18 years of age.

CHAPTER 3 – APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

The family must submit an application that provides SCCHA with the information needed to determine the family's eligibility. SCCHA will place all eligible families that apply for the units on a waiting list. When a unit becomes available, SCCHA will select families from the waiting list in accordance with SCCHA policies as stated in this plan.

SCCHA must comply with all equal opportunity requirements and affirmatively further fair housing goals in the administration of its housing program. Adherence to the selection policies described in this chapter ensures that SCCHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD policies for accepting applications, managing the waiting list and selecting families from the waiting list.

The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process and discusses how applicants can obtain and submit applications. It also specifies how SCCHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how SCHHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process SCCHA will use to keep the waiting list current.

Part III: Tenant Selection. This part describes the policies that guide SCCHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that SCCHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

3-I.A. OVERVIEW

Any family that wishes to reside in a public housing property must apply for admission to the program. A two-step process will be used to select families from the waiting list. Under the two-step application process, SCCHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

3-I.B. PLACEMENT ON THE WAITING LIST

SCCHA must review each completed application received and make a preliminary assessment of the family's

eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless SCCHA determines the family to be ineligible. Where the family is determined to be ineligible, SCCHA will notify the family in writing. No applicant has a right or entitlement to be listed on the waiting list, or to any position on the waiting list.

Ineligible for Placement on the Waiting List

All applicant families will be placed on the waiting list, when open. If SCCHA determines from the information provided that a family is ineligible, SCCHA will send written notification of the ineligibility determination within 10 business days of receipt of the completed application. The notice will specify the reasons for ineligibility.

Eligible for Placement on the Waiting List

Applicants will be placed on the waiting list according to SCCHA preference(s) and the date and time their complete application is received by SCCHA. SCCHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards. Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to SCCHA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, SCCHA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

Reporting Changes in Family Circumstances

Applicants are required to update any changes to their family composition, preference status, mailing address and/or email address within 10 business days of occurrence. This will also assist SCCHA pre-application intake. Applicants are also required to respond to requests from SCCHA to update information on their pre-application, or to determine their continued interest in assistance.

When an applicant supplies information, which indicates qualification for an additional preference, the applicant will be placed on the interest list in the appropriate order determined by the newly claimed preference, in combination with any previously claimed preference.

PART II: MANAGING THE WAITING LIST

3-II.A. OVERVIEW

SCCHA has policies regarding the types of waiting lists it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for the program, and conducting outreach to ensure a sufficient number of applicants. SCCHA will maintain site-based waitlists for its property.

3-II.B. ORGANIZATION OF THE WAITING LIST

SCCHA's waiting lists must be organized in such a manner to allow SCCHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

The waiting list will contain the following information for each applicant listed:

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount and source of annual income
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race ethnicity of the head of household

3-II.C. OPENING AND CLOSING THE WAITING LIST

The SCCHA announces its intent to accept pre-applications for the purpose of establishing an interest list by placing a public notice the local newspaper or general circulation, and other suitable means if available, including agency website at www.scchousingauthority.org

The notice will comply with HUD fair housing requirements. The notice will contain:

- The dates, times and the locations where families may apply
- The program(s) for which applications will be taken
- A brief description of the program(s)
- The methods by which pre-applications will be accepted
- Limitations, if any, on who may apply

SCCHA is permitted to close its waiting lists, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. SCCHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit.

3-II.D. PURGING THE WAITING LIST

The waiting list will be updated as needed to ensure that all applicant information is current and timely. The primary goal in purging an interest list is to obtain current information on interested applicants and to remove applicants who are no longer interested in participating in the program.

To update the waiting lists, SCCHA will send an update request via mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that SCCHA has on record for the family. The update request will provide a

deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

PART III: TENANT SELECTION

3-III.A. OVERVIEW

Once the waiting list has been established and as units become available for admission, SCCHA will create an application pool and begin the full application process. For information about eligibility for admission, refer to Chapter 4.

This section will describe the following policies:

- Selecting families from the waiting list
- Establishing and verifying preferences
- Completing the full application for final eligibility determination
- Selecting of eligible applicants for unit offer

3-III.B. SELECTING FAMILIES FROM THE WAITING LIST

As families are selected from reach the top of the waiting list and based on SCCHA's turnover and the availability of funding, applicants will be selected from the interest list to form a final eligibility pool.

It is SCCHA's objective to pull names from the waiting list within a reasonable amount of time and determine if the family is eligible for assistance. The information provided on the pre-application will be verified during this final eligibility process.

Method of Selection

Families will be selected from the waiting list based on preference. Among applicants with the same preference points, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by SCCHA.

When selecting applicants from the waiting list, SCCHA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. SCCHA will offer the unit to the highest-ranking applicant who qualifies for that unit size, unit type, income limit or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Families who are selected from the waiting list will be contacted by SCCHA to complete a full application for occupancy. Applicants may not retain their place on the wait list if they refuse to complete the application process or fail to provide required documentation to determine eligibility.

3-III.C. APPLICATION INTERVIEW

Being invited to attend an interview does not constitute admission to the program or formal offer of a unit.

Families selected from the waiting list are required to:

- Participate in an eligibility interview
- All adult household members are required to attend the interview
- The family must provide the information necessary to establish the family's eligibility, including suitability.
- The family must complete required forms, provide signatures, and submit required documentation

3-III.D. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY

SCCHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including suitability standards, SCCHA will make a final determination of eligibility (see Chapter 4).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of their eligibility as well as an approximate date of occupancy insofar as that date can be reasonably determined. If unit availability cannot be reasonably determined, a notice of eligibility will be sent and will indicate that the family's name is being put on an eligible list from which future available units will be offered.

SCCHA will promptly notify any family determined to be ineligible for admission and the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity to contest such determination.

CHAPTER 4 - ELIGIBILITY AND SUITABILITY FOR ADMISSION TO PUBLIC HOUSING

[24 CFR Part 960, Subpart B]

INTRODUCTION

This chapter describes the definitions of family and household members, eligibility and suitability criteria for admission to the public housing program. The policy of SCCHA is to apply these criteria to evaluate the qualifications of families who apply. SCCHA will review all information provided by the family carefully and without regard to factors other than those defined in this chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by SCCHA pertaining to their eligibility and suitability. This chapter contains three parts:

- Part I: Family and Household Members
- Part II: Eligibility Criteria
- Part III: Screening & Denial of Admission

PART I: FAMILY AND HOUSEHOLD MEMBERS

[24 CFR 5.105 (a)(2), 24 CFR 5.403, FR ~~2/14/2023~~ ~~02/03/2012~~, and Notice PIH 2014-20, and Notice PIH 2023-27]

4-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members and explains HUD's eligibility rules.

4-I.B. FAMILY AND HOUSEHOLD

The terms family and household have different meanings in the public housing program.

Family

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, disabled person, near-elderly person, or any other single person;
- An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or
- A group of persons residing together. Such group includes, but is not limited to: a family with or without children (a child who is temporarily away from the home because of placement in foster care is

considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. SCCHA has the discretion to determine if any other group of persons qualifies as a family.

SCCHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family. Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.

Household

Household is a broader term that includes additional people who, with SCCHA's permission, live in a unit, such as live-in aides, foster children, and foster adults.

4-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF RESIDENT FAMILY

Family Break-up

When a family on the interest list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the interest list is open.

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will continue to be assisted.

If a court determines the disposition of property between members of the applicant in a divorce or separation decree, SCCHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, SCCHA will determine which family retains their placement on the interest list by taking into consideration the following factors:

- The interest of any minor children, including custody arrangements;
- The interest of any ill, elderly, or disabled family members;
- The interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse and provides documentation;
- Any possible risks to family members as a result of domestic violence or criminal activity;
- The recommendations of social service professionals

Remaining Member of a Resident Family [24 CFR 5.403]

The HUD definition of family includes the remaining member of a resident family, which is a member of a resident family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a resident family” and there is no family member able to assume the responsibilities of the head of household, see Section 6-I.B., for the policy on caretakers for a child.

4-I.D. HEAD OF HOUSEHOLD

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

SCCHA Policy

The family may designate any qualified family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

4-I.E. SPOUSE, COHEAD, AND OTHER ADULT

Spouse means the marriage partner or registered domestic partner of the head of household.

SCCHA Policy

A marriage partner includes the partner in a "common law" marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A cohead is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all its responsibilities under the program, but who is not a spouse. A family can have only one cohead.

Other adult means a family member, other than the head, spouse who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

4-I.F. DEPENDENTS AND MINORS

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a member of the family (which excludes foster children and foster adults) other than the family head or spouse who is under 18 years of age, or is a person with a disability, or is a full-time student. ~~family member who is under 18 years of age.~~

Joint Custody of Dependents

SCCHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 51 percent or more of the time, or if the family has been granted physical custody of the minor child. When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, SCCHA will make the determination based on available documents such as school records, court orders, or an IRS income tax return showing which family has claimed the child for income tax purposes, school records or other credible documentation.

4-I.G. FULL-TIME STUDENT ~~(including K-12 and adult dependents)~~

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to determine if attendance is full-time is defined by the educational institution. Identifying each FTS is important because (1) families consisting of all full-time students are ineligible for assistance and (2) ~~all forms of financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income except for students receiving Section 8 assistance.~~ the income of such an FTS is treated differently from the income of other family members.

Eligibility exceptions to families consisting of full-time students are as follows:

- All members of the household are married and either file or are entitled to file a joint tax return. (Married couples with school age children would not qualify under this exception as the children are not married).
- The household consists of at least one single parent and his or her minor children, and the parent is not a dependent of a third party. Any children may be claimed as a dependent of either parent, regardless of tenancy in unit.
- At least one member of the household receives assistance under Title IV of the Social Security Act (AFDC, TANF, CalWorks, etc. Not SSA or SSI).
- At least one member is enrolled in a job training program receiving assistance under the Work Investment Act (WIA) formerly known as the Job Training Partnership Act, or similar federal, state or local laws.
- At least one member of the household is under age 24 and has exited the Foster Care system within the previous 6 years.

4-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY **[24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/2012]**

Elderly Persons

An elderly person is a person who is at least 62 years of age [24 CFR 5.100].

Near-Elderly Persons

A near-elderly person is a person who is 50-61 years of age [24 CFR 945.105].

Elderly Family

An elderly family is one in which the head (including co-head), spouse, or sole member is an elderly person [24 CFR 5.403].

4-I.I. GUESTS

A guest is defined as 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 in accordance to the lease terms

4-I.J. FOSTER CHILDREN AND FOSTER ADULTS

A foster adult is a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A foster child is a member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction. ~~Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone.~~

~~The term foster child is not specifically defined by the regulations.~~

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and Notice PIH 2023-27].

SCCHA Policy

~~A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under short-term or long-term foster care arrangement with the custodial agency.~~

~~Children that are temporarily absent from the home as a result of placement in foster care are considered as family member.~~

4-I.K. ABSENT FAMILY MEMBERS

Individuals may be temporarily or permanently absent from the unit for a variety of reasons including educational activities, placement in foster care, employment, and illness.

Temporarily and Permanently Absent

SCCHA Policy

Generally, an individual who is or is expected to be absent from the unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

SCCHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to SCCHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home due to placement in foster care are considered members of the family.

SCCHA Policy

If a child has been placed in foster care, SCCHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Return of Permanently Absent Family Members

SCCHA Policy

The family must request SCCHA approval for the return of any adult family members that SCCHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this chapter.

4-I.L. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family. Relatives may be approved as live-in aides if they meet all criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant's family.

SCCHA must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR Part 8.

SCCHA Policy

A family's request for a live-in aide must be made in writing. SCCHA will verify the need for a live-in aide from a reliable, knowledgeable professional as provided by the family such as a doctor, social worker, or case worker.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

SCCHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to SCCHA or to another PHA (Public Housing Authority) in connection to Section 8 or public housing assistance under the 1937 Act.

PART II: ELIGIBILITY CRITERIA

4-II.A. INCOME LIMITS

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

Using Income Limits for Eligibility [24 CFR 960.201]

Income limits are used to determine eligibility at admission ~~and, then, annually for continued eligibility~~. Eligibility is established by comparing a family's annual income with the published income limits. To be income-eligible, a family must not exceed the applicable income limit for a low-income family as established by HUD.

4-II.B. SOCIAL SECURITY NUMBERS

[24 CFR 5.216, ~~And~~ 5.218, Notice PIH ~~2012-10~~2023-27]

In accordance with 24 CFR 5.216, ~~applicants and participants (including each member of the household) are required to disclose their assigned SSN,~~ the applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN, apart from the following individuals:

- Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
 - A family that consists of a single household member (including a pregnant individual) who does not have eligible immigration status is not eligible for housing assistance and cannot be housed.
 - A family that consists of two or more household members and at least one household member that has eligible immigration status, is classified as a mixed family, and is eligible for prorated assistance in accordance with 24 CFR 5.520. SCCHA will not deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.
- Existing program participants as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid. The SCCHA will confirm HUD’s validation of the participant’s SSN by viewing the household’s Summary Report or the Identity Verification Report in the EIV system.
- Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.
- If a child under the age of 6 has been added to an applicant family’s household composition within the last 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child’s SSN with 90 days of admission.

SCCHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

~~The applicant and all members of the applicant’s household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. **Note:** These requirements do not apply to noncitizens who do not contend eligible immigration status.~~

4-II.C. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS

[24 CFR 5, Subpart E]

In order to receive assistance, a family member must be a U.S. citizen, a citizen of the Freely Associated States of the Marshall Islands, the Federated States of Micronesia, and Palau, or an eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family’s status is defined. [24 CFR 5.508]

Mixed Families: A family is eligible for assistance as long as at least one member of the family has eligible status. A mixed family is a family whose members include those with eligible status and those with non-eligible status. Mixed families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

Non-eligible members: Applicant families that include only non-eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students: As defined by HUD in the non-citizen regulations, non-citizen students are not eligible for assistance. [24 CFR 5.522]

Time Frame for Determination of Citizenship Status: [24 CFR 5.508(g)]

For new occupants joining the family, SCCHA must verify their status at the first interim or regular reexamination following the person’s occupancy, whichever comes first. If an individual qualifies for a time extension for the submission of required documents, SCCHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)]. Each family member is required to submit evidence of eligible status only one time during continuous occupancy. SCCHA will verify the status of applicants at the time other eligibility factors are determined.

4-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 5.232]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family’s eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

SCCHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow SCCHA to obtain information that SCCHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of SCCHA to access financial records from financial institutions, unless SCCHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)].

SCCHA Policy

SCCHA will not terminate assistance if the family revokes consent to allow SCCHA to access records from financial institutions. However, the family is required to sign a new consent form by the next annual or interim reexamination, whichever occurs first, in order to avoid termination of assistance.

PART III: DENIAL OF ASSISTANCE

4-III.A. SCREENING

The screening for eviction and criminal activity will occur after an applicant family has been selected from the interest list. All adults (age 18 and above), including emancipated minors in the applicant household, live-in attendants, and all incoming family's members must go through the screening process.

Criminal Background Checks

The family will be required to disclose criminal/drug-related activity for all family members. All adult family members must submit a signed Criminal Background Consent form in order for SCCHA to obtain access to the Criminal Background records [24 CFR 5.903]. SCCHA will conduct criminal background checks using, but not limited to, FBI finger printing, DOJ Lifetime Sex Offender, and county and statewide criminal searches. SCCHA will not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

A family may be denied assistance if the results show evidence which would prohibit admission to public housing. If SCCHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, SCCHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record. An opportunity is provided to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

When conducting a background check SCCHA will obtain the following reports:

- Credit report
- Eviction report
- Criminal background report
- Lifetime sex offender registration report [24 CFR 960.204(a)(4)]

Screening for Suitability [24 CFR 960.203(c)]

All applicants will be processed in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate ability to comply with essential provisions of the lease as summarized below.

All applicants must demonstrate through an assessment of current and past behavior the ability to:

- Pay rent and other charges as required by the lease in a timely manner
- Care for and avoid damaging the unit and common areas
- Use facilities, appliances and equipment in a reasonable way
- Not create health or safety hazards, and to report maintenance needs in a timely manner
- Not interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others
- Not engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not engage in drug-related criminal activity on or off SCCHA premises
- Not to have ever been convicted of manufacturing, producing, or distributing methamphetamine, also known as "speed," on the premises of federally assisted housing
- Not be subject to sex offender lifetime registration under a state sex offender registration program
- Comply with necessary and reasonable rules and program requirements of HUD and SCCHA

- Comply with local health and safety codes
- Not commit fraud, bribery, or any other corrupt or criminal acts
- Not misrepresent income or other eligibility factors to an agency, for example welfare fraud is grounds for denial of assistance; and
- Not be non-compliant with any assistance programs, local law enforcement, or government agency

As a part of the final suitability determination, SCCHA will screen each applicant household to assess their suitability as renters. SCCHA may complete a credit check or rental history check on all applicants.

SCCHA may complete a home visit at the current residence of all applicants who:

- Have had landlords refuse to sign their Resident Reference Form;
- Stated information on their application that is inconsistent with information on the credit and unlawful detainer report;
- Do not have an established residence at the time of their suitability review (e.g., state they live “here and there with friends”);
- Have landlords raise suitability issues on the Resident Reference Forms;
- Have a criminal history that raises suitability concerns;
- Claim to have zero income (to establish how they are meeting their needs);

The history of applicant’s conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

- Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare [24CFR 960.205(b)]
- Adversely affect the physical environment or financial stability of the development [24CFR 960.205(b)]
- Violate the terms and conditions of the lease [24 CFR 8.3]
- Require services from SCCHA staff that would alter the fundamental nature of the SCCHA’s program [24 CFR 8.3]

Screening for Drug-Related and/or Criminal Activity [24 CFR 960.204]

SCCHA will obtain criminal history information from state and/or local law enforcement agencies, and the FBI on all applicants over the age of eighteen for the purpose of determining resident suitability. All applicants to the public housing program will be screened for drug-related, violent- and other criminal activity during the suitability review process.

SCCHA defines criminal activity in the following manner:

Drug-Related Criminal Activity: the illegal manufacture, sale, distribution, use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug. [24 CFR 5.100]

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 [24 CFR 5.100].

Any criminal activity that subjects a member of the applicant’s household to be subject to sex offender lifetime registration under a State sex offender registration program.

Other Criminal Activity: any criminal activity including, but not limited to, violent criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the public housing premises by other residents, includes, but not limited to: [24 CFR 960.203 (c) (3)]

- Criminal activity that may threaten the health or safety of SCCHA staff, contractors, subcontractors, or agents
- Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past five years. A conviction for such activity will be given more weight than an arrest or an eviction.

4-III.B MANDATORY DENIAL OF ASSISTANCE

[24 CFR 960.204]

HUD regulations require mandatory denial of assistance for the following reasons:

- SCCHA will deny admission to those applicants convicted of manufacturing or producing Methamphetamine on the premises of federally assisted housing, in accordance with HUD regulations
- An applicant evicted from federally assisted housing by reason of drug-related criminal activity within a three-year period shall be denied admission.
- SCCHA will deny admission to applicants where it is determined that there is a pattern of illegal use of a controlled substance or abuse of alcohol by the applicant. SCCHA will consider the illegal use of a controlled substance or abuse of alcohol a “pattern” where there is more than three (3) incidents during the previous 24 months.
- Current illegal drug use for any household members – if SCCHA determines that any household member is **currently engaged** in any illegal use of a drug and/or possession.
- In accordance with 24 CFR 960.204(a)(4), SCCHA will deny admission to public housing for any applicant who is subject to sex offender lifetime registration under a state sex offender registration program.
- SCCHA will deny admission to public housing for any applicant who has engaged in violent criminal activity within the last five years, however, depending upon the seriousness of the crime committed the prohibition would be up to seven years from the date of the offense.

4-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS

[24 CFR 5.618 as amended by MTW]

A family is ineligible for assistance if:

- The family's net assets (as defined in 24 CFR 5.603) exceed \$100,000 per family member (for example, a family of four must not have total net assets exceeding \$400,000); or
- The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on State or local laws of the jurisdiction where the property is located, real property that is suitable for occupancy by the family as a residence.

This real property restriction does not apply to:

- Any property for which the family is receiving assistance under 24 CFR 982.620; or under the Homeownership Option in 24 CFR part 982;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as defined in 24 CFR part 5, subpart L; or
- Any family that is offering such property for sale.

A property will be considered “suitable for occupancy” unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by SCCHA);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

SCCHA Policy

SCCHA will consider property located outside of the following counties to be geographically located as to be a hardship for the family and therefore exempt from the real property restriction: Alameda, Contra Costa, Marin, Merced, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, San Benito, Solano, and Stanislaus. For a property located within these counties, SCCHA will consider the specific circumstances of the family to determine whether the property’s geographic location poses a hardship for the family.

SCCHA will consider a property not sufficient for the size of the family based on SCCHA’s occupancy standards (see Chapter 5).

4-III.D. ADDITIONAL PROHIBITIONS

[24 CFR 960.203(c)]

SCCHA may at any time deny program assistance for any of the following reasons:

- Financial Obligations: Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three years.
- Disturbances: Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three years which may adversely affect the health, safety, or welfare of other residents.
- Past Termination from a SCCHA Program: If SCCHA has ever terminated assistance under the program for any member of the family; has a pattern of eviction from housing or termination from residential programs within the past three years (considering relevant circumstances).
- Outstanding Debt: If the family currently owes rent or other amounts to SCCHA or to another SCCHA in connection with Section 8 or public housing assistance under the 1937 Act.
- Fraud, Bribery, or Other Corrupt or Criminal Act Within a Federal Housing Program: If any family member has committed such acts in connection with a federal housing program.
- Actual or Threatened Abusive or Violent Behavior Toward SCCHA Personnel: If the family has engaged in or threatened abusive or violent behavior toward SCCHA personnel.
- Repayment Breach with a HA (Housing Authority): If the family breaches an agreement owed to a HA
- Fraud Against Another Agency: Misrepresentation of income or other eligibility factors to an agency other than the SCCHA, for example welfare fraud, is grounds for denial of assistance.
- Non-compliance with any assistance programs, governmental agency and/or law enforcement.
- An applicant's misrepresentation of any information related to eligibility, preferences, housing history, allowances, family composition, and/or criminal history.
- Engaged in or threatened violent or abusive behavior toward SCCHA personnel: Abusive or violent behavior towards SCCHA personnel includes verbal abuse 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. Actual physical abuse or violence will always be cause for denial of admission.

SCCHA Policy

The SCCHA may deny admission of a household to the program if SCCHA determines that any household member has a history of any of the following prior to admission:

- Drug-related criminal activity; up to three years from the date of the offense.
- Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; up to three years from the date of the offense.
- Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the SCCHA (including a SCCHA employee or a SCCHA contractor, subcontractor or agent); up to three years from the date of the offense.
- Violent criminal activity; up to five to seven years from the date of the offense, depending upon the seriousness of the offense.
- Convicted of any felony; up to three years from the date of the offense.
- Is subject to a lifetime registration requirement under the State Sex Offender Registration Program.

4-III.E. OTHER SUITABILITY CIRCUMSTANCE

Paying Habits

SCCHA will examine any SCCHA records from a prior tenancy, request written references from the applicant's current landlord, and may request written references from current and former landlords for up to the past three years.

Based upon these verifications, SCCHA will determine if the applicant was chronically late with rent payments, has been evicted for nonpayment of rent, or had other legal action initiated against them for debts owed. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

Mitigating Circumstances - Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

In determining whether to deny admission to public housing based on a pattern of illegal use of a controlled substance or abuse of alcohol by an applicant, and/or prior eviction from federally assisted housing by reason of drug-related criminal activity, SCCHA may consider the following mitigating factors:

- If the individual has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is willing to continue with counseling and support activities and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).
- If the individual has otherwise been rehabilitated successfully and is willing to continue with counseling and support activities and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).
- If the individual is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

Mitigating circumstances are facts relating to the applicant's record of unsuitable history or behavior, which, when verified, would indicate both:

- What the reason for the unsuitable history and/or behavior is; and
- That the reason for the unsuitable history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one, justifying admission.

Mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, SCCHA may refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. SCCHA may request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. SCCHA will consider such circumstances in light of the applicant's ability to substantiate through verification the

claim of mitigating circumstances and their prospects for improved future behavior; and the applicant's overall performance with respect to all the screening requirements.

4-III.F. PROHIBITED CRITERIA FOR DENIAL OF ADMISSION

SCCHA shall not reject an applicant on the basis of:

- Race, color, sex, religion, familial status, disability, national origin, marital status gender identity, or sexual orientation.
- Having no income
- Employment status
- Not participating in job-training programs
- Not applying for various welfare or benefit programs
- Having a child (or children)
- Having children born out of wedlock
- Being on welfare
- Being a student

Being or having been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

4-III.G. REMOVAL OF A FAMILY MEMBER'S NAME FROM THE APPLICATION

[24 CFR 960.203 (c)(3)(i)]

SCCHA may impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

SCCHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit. After admission to the program, the family must present evidence of the former family member's current address upon SCCHA request.

4-III.H. REASONABLE ACCOMMODATION

If the family includes a person with disabilities, SCCHA's decision concerning denial of admission is subject to consideration of reasonable accommodation.

SCCHA Policy

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

CHAPTER 5 – OCCUPANCY STANDARDS & UNIT OFFERS

INTRODUCTION

This chapter states SCCHA occupancy standards used to determine the appropriate development type and unit size for families. Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains SCCHA’s standards for determining the appropriate unit size for families of different sizes and types.

Part II: Unit Offers. This part contains the SCCHA’s policies for making unit offers and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by SCCHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units and prevents underutilization. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors SCCHA will use to determine the size of the unit for which a family qualifies and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, SCCHA will match characteristics of the family with the type of unit available, for example, number of bedrooms. Although SCCHA does determine the size of unit the family qualifies for under the occupancy standards, SCCHA does not determine who shares a bedroom/sleeping room. SCCHA’s occupancy standards for determining unit size are applied in a manner consistent with fair housing requirements.

SCCHA’s occupancy standards are as follows:

- SCCHA will assign one bedroom for each two persons within the household, except in the following circumstances:
 - Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide’s family.
- Single-person families will be allocated one bedroom.
- Foster children will be included in determining unit size.

SCCHA will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
1	1	2
2	2	4

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

SCCHA will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified. Accessible units will be offered to non-mobility impaired applicants only with the understanding that such applicants must accept a transfer to a non-accessible unit at a later date if a person with a mobility impairment requiring the unit applies for housing and is determined eligible.

Other Circumstances

Circumstances may dictate a larger size than the occupancy standards permit when:

- Persons cannot share a bedroom because of a need for medical equipment due to its size and/or function. Verification from a doctor must accompany requests for a larger bedroom to accommodate medical equipment.
- Requests based on health-related reasons must be verified by a doctor as to the need of a different size unit.

SCCHA will grant exceptions from the guidelines in cases where it is the family's request or SCCHA determines the exceptions are justified by the relationship, age, sex, health, or disability of family members, or other individual circumstances, and there is a vacant unit available.

Applicants may request to be placed on the waiting interest list for a unit size smaller than designated by the occupancy guidelines, (as long as the unit is not overcrowded according to SCCHA Occupancy Standards and local codes). The family must agree not to request a transfer until they have been admitted and have occupied the unit for 12 months. The family may request to be placed on a larger bedroom size waiting list than indicated by the SCCHA's occupancy guidelines. The request must explain the need or justification for a larger bedroom size and must be verified by the SCCHA before the family is placed on the larger bedroom size list.

Processing of Exceptions

All requests for exceptions to the occupancy standards must be submitted in writing. In the case of a request for exception as a reasonable accommodation, SCCHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, SCCHA will consider the exception request any time the resident indicates that an accommodation is needed whether a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable

professional source, unless the disability and the disability-related request for accommodation is clear or otherwise known.

PART II: UNIT OFFERS

[24 CFR 1.4(b)(2)(ii); 24 CFR 960.208]

5.II.A. OVERVIEW

SCCHA will assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws. In filling an actual or expected vacancy, SCCHA must offer the dwelling unit to an applicant in the appropriate offer sequence. SCCHA will offer the unit until it is accepted. This section describes SCCHA's policies regarding the number of unit offers that will be made to applicants selected from the waiting list. This section also describes SCCHA's policies for offering units with accessibility features. SCCHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

SCCHA has adopted a "one offer plan" for offering units to applicants. Under this plan the first qualified applicant in sequence on the waiting list will be made one offer of a unit of the appropriate size.

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

Applicants must accept or refuse the unit offer(s) within 3 business days of the date of the unit offer. Offers made by telephone will be confirmed by letter. When an applicant rejects the final unit offer, SCCHA will remove the applicant's name from the site-based waiting list. Removal from the site-based waiting list means the applicant must reapply if still interested when list is open.

5-II.D. REFUSALS OF UNIT OFFER

Good Cause for Unit Refusal

Applicants may refuse to accept a unit offer for "good cause." Good cause includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

- Unit is not of the appropriate size and type, and the applicant would be able to reside there only temporarily.
- Unit, if applicable, contains lead-based paint, and accepting the offer could result in subjecting the applicant's children under seven (7) years of age to lead-based paint poisoning.
- A qualified, knowledgeable, health professional verifies the temporary hospitalization or recovery from illness of the principal household member, other household members, or a live-in aide necessary to care for the principal household member.

- The unit is inappropriate for the applicant’s disabilities.
- SCCHA has disclosed a death in the unit within the past three (3) years.
- A household or member of a household has been identified during the ‘Existing Tenant’ search in EIV and must obtain clearance to avoid a multiple subsidy occurrence. Applicant will be given 45 days to provide proof of clearance.

5-II.E. ACCESSIBLE UNITS

[24 CFR 8.27]

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant, SCCHA must offer such units:

- To a current resident of another unit of the same development, or other development under SCCHA’s control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then to an eligible qualified applicant on the waiting list who requires the vacant accessible unit.
- When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, SCCHA may require the applicant to agree (and may incorporate this agreement in the lease) to move within 30 days to the first available vacant unit of appropriate size, at the same or comparable housing development site, should the accessible unit be required for an eligible disabled family. Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

CHAPTER 6 – INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

A family's annual income is used to determine their income eligibility for the program. SCCHA will use the policies and methods described in this chapter to ensure that only income eligible families are offered units in developments. This chapter describes regulations that specify the sources of income to include and exclude to arrive at a family's annual income.

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and SCCHA policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the sources of income which are excluded from the family's income. These requirements and SCCHA policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established, HUD regulations require SCCHA to subtract from annual income any of five the mandatory deductions for which a family qualifies. These requirements and SCCHA policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents, method of prorating assistance for mixed families, and the family's choice in rents, including mixed family rent when TTP is higher than public housing flat rent.

PART I: ANNUAL INCOME

6-I.A. DEFINITION

Annual income includes, with respect to the family:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated. ~~Annual income means all amounts, monetary or not, which:~~
- ~~Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member~~

- ~~Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and~~
- ~~Which are not specifically excluded in paragraph [5.609(c)]~~
- ~~Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access~~

In addition to this general definition, ~~HUD regulations establish policies for treating specific types of income and assets.~~ the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition *in accordance with SCCHA policies (see Chapter 9)*. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)]. All other sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(3)].

	All other sources of unearned income, except those specifically excluded by the regulations, are included.
--	--

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

SCCHA Policy

Generally, an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Exceptions to this general policy are discussed below.

Absent Students

SCCHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to SCCHA indicating that the student has established a separate household, or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403-~~(2)~~ (i)].

SCCHA Policy

If a child has been placed in foster care, SCCHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

SCCHA Policy

An employed head, spouse, or cohead absent from the unit more than 90 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

SCCHA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If the responsible medical professional cannot provide a determination, the person generally will be considered

temporarily absent for not more than 180 days. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Joint Custody of Children

SCCHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 51 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, SCCHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

Caretakers for a Child

SCCHA Policy

The approval of a caretaker is at SCCHA's discretion and subject to SCCHA's screening criteria. If neither a parent nor a designated guardian remains in a household, SCCHA will take the following actions. If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases SCCHA will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ~~ANTICIPATING~~ CALCULATING ANNUAL INCOME

~~SCCHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.~~

Annual Income Projection

~~SCCHA generally will use current circumstances to determine anticipated income for the coming 12-month period. SCCHA is authorized to use other than current circumstances to anticipate income when:~~

- ~~• An imminent change in circumstances is expected~~
- ~~• It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]~~
- ~~• SCCHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]~~

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Initial occupancy and interim reexaminations

SCCHA must estimate the income of the family for the upcoming 12-month period:

- To determine family income for initial occupancy or for the initial provision of housing assistance; or
- To determine family income for an interim reexamination of family income under 24 CFR 960.257(b).

Annual Reexaminations

SCCHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations.

In determining the income of the family for the previous 12-month period, SCCHA must take into consideration any redetermination of income during the previous 12-month period resulting from an interim reexamination of family income under 24 CFR 960.257(b)

SCCHA must make adjustments to reflect current income if there was a change in income during the previous 12-month period that was not accounted for in a redetermination of income.

6-I.D. EARNED INCOME

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27] [24 CFR 5.609(b)(1)]

~~The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.~~

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position(e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted ~~[24 CFR 5.609(b)(8)]~~ except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)~~(c)(7)~~].

~~Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]~~

~~This type of income (including gifts) is not included in annual income.~~

SCCHA Policy

~~Defines sporadic, non-recurring or temporary income as income lasting no longer than 90 cumulative days within a one-year period.~~

~~Children's Earnings of a Minor [24 CFR 5.609(b)(3)(c)(1)]~~

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors ~~children (including foster children) under the age of 18 years~~ is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, is included. ~~(See Eligibility chapter for a definition of foster children.)~~

~~Certain Earned Income of Full-Time Students [24 CFR 5.609(b)(14) as amended by MTW]~~

~~For families residing in a unit who are recipients of Section 8 Assistance earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.~~ The earned income of a dependent full-time student is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending.

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

~~Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]~~

Income from some federal programs is specifically excluded from consideration as income, including:

- ~~• Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)~~
- ~~• Awards under the federal work-study program (20 U.S.C. 1087 uu)~~
- ~~• Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))~~
- ~~• Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))~~
- ~~• Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)~~

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a Service for SCCHA, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the SCCHA's governing board. No resident may receive more than one such stipend during the same period of time.

6-I.E. BUSINESS INCOME

[24 CFR 5.609(b)(28)(B)(2); Notice PIH 2023-27]

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(28)].

Business Expenses

Net income is “gross income less business expense”.

SCCHA Policy

To determine business expenses that may be deducted from gross income, SCCHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit SCCHA to deduct from gross income expenses for business expansion.

SCCHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit SCCHA to deduct from gross income the amortization of capital indebtedness.

SCCHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means SCCHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require SCCHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

SCCHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a resident family provided an up-front loan of \$2,000 to help a business get started, SCCHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

SCCHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.F. STUDENT FINANCIAL ASSISTANCE

[24 CFR 5.609(b)(9) as amended by MTW]

SCCHA Policy

SCCHA will exclude the full amount of student financial assistance received by full-time and part-time students.

6-I.G. PERIODIC PAYMENTS

[Notice PIH 2023-27 as amended by MTW]

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are ~~included and excluded from annual income~~.not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

~~Periodic Payments Included in Annual Income~~

- ~~Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].~~
- ~~Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4)].~~

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. ~~[CFR 5.609(b)(4)].~~ Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [~~FR Notice 11/24/08~~24 CFR 6.609(b)(16)].

When a delayed-start payment is received and reported during the period in which the SCCHA is processing an annual reexamination, the SCCHA may adjust the resident rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with SCCHA.

Treatment of Overpayment Deductions from Social Security Benefits

The SCCHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, SCCHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Alimony and Child Support

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

SCCHA Policy

SCCHA must count alimony awarded as part of a divorce or separation agreement or child support amounts awarded by the court.

SCCHA will count court-awarded amounts for alimony and/or child support unless the SCCHA verifies that:

- The payments are not being made received as awarded and/or
- The family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Adoption Assistance Payments [24 CFR 5.609(b)(15) as amended by MTW]

Under MTW policy, SCCHA will fully exclude any adoption assistance payments for a child received by the family.

~~Periodic Payments Excluded from Annual Income~~

~~Payments received for the care of foster children or foster adults (usually persons with Disabilities, unrelated to the resident family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-1].~~

~~SCCHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.~~

- ~~• Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]~~
- ~~• Amounts received under the Low Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]~~
- ~~• Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858g) [24 CFR 5.609(c)(17)]~~
- ~~• Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.~~
- ~~• Lump sums received as a result of delays in processing Social Security and SSI payments [24 CFR 5.609(b)(4)].~~

~~6.6 — PAYMENTS IN LIEU OF EARNINGS~~

~~Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)].~~

6-I.H. NONRECURRING INCOME

[24 CFR 5.609(b)(24) and Notice PIH 2023-27 as amended by MTW]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

SCCHA Policy

Under MTW policy, income received from a guaranteed income program with a discrete beginning and end date will be fully excluded from annual income, regardless of whether the income will be repeated in the coming year.

6-I.I. WELFARE ASSISTANCE

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (CALWORKS) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The SCCHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which

Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, SCCHA must include in annual income “imputed” welfare income. SCCHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the Reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b) (2)].

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c) (4)].

~~6.8 PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(B)(7)]~~

~~Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a resident family.~~

~~Alimony and Child Support~~

~~SCCHA must count alimony awarded as part of a divorce or separation agreement or child support amounts awarded by the court~~

~~SCCHA will count court-awarded amounts for alimony and/or child support unless the SCCHA verifies that:~~

- ~~• The payments are not being made received as awarded and/or~~
- ~~• The family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.~~

~~Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.~~

~~Regular Contributions or Gifts~~

~~SCCHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a resident family [24 CFR 5.609(B) (7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].~~

SCCHA Policy

~~Examples of regular contributions include: (1) regular (can be defined as 3 or more in the last 3 years) payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.~~

6-I.J. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

- ~~Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:~~
 - Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
 - Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)].
 - Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
 - Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
 - Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
 - Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
 - The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
 - Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
 - Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
 - Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made

under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.

- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs (e.g., special equipment, clothing, transportation, child care, etc.) and which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)]
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for SCCHA or the owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(18)]

~~Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/2014 include the following:~~

- ~~• Reimbursement of medical expenses [24 CFR 5.609(c)(4)]~~
- ~~• The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].~~
- ~~• Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment is not considered student financial assistance and is included in annual income.~~
- ~~• Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out of pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]~~
- ~~• Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]~~

- ~~Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]~~
- ~~Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]~~
- ~~Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]~~
- ~~Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]~~
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(b)(22)(e)-(17)], FR Notice 5/20/2014. HUD publishes an updated list of these exclusions periodically. It includes:
 1. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 2. Benefits under section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
 3. Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044 (g), 5058)
 4. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626 (c)).
 5. Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 6. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624 (f))
 7. Payments received under programs funded in whole or in part under the workforce Investment Act of 1998 (29 U.S.C. 2931)
 8. Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
 9. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L 94-540, 90 Stat. 2503-04)
 10. Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f (b))
 11. A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al., for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
 12. The first 2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C 1407-1408)
 13. Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native America housing programs)
 14. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
 15. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent Orange-product liability litigation, M.D.L. No. 381 (E.D.N.Y)
 16. Payments received under 38 U.S.C. 1833 (c) to children of Vietnam veterans born with spinal bifida, children of women of Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

17. Payments received under the Marine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
18. The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
19. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C.32(j))
20. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
21. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)
22. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637 (d))
23. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42. U.S.C. 10602)
24. Any amounts in “individual development account” as provided by the Assets for Independence Act, as amended in 2002
25. Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, “Exclusion from Income of Payments under Recent Tribal Settlements” (25 U.S.C. 117b(a))
26. Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organization
- ~~26.~~27. Distributions from an ABLÉ account, and actual or imputed interest on the ABLÉ account balance [See also Notice PIH 2019-09]

6-I.K. EARNED INCOME DISALLOWANCE

[24 CFR 960.255, Streamlining Final Rule (SFR) Federal Register 3/8/16, [Notice PIH 2023-27](#)]

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This disallowance applies only to individuals in families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. Previously unemployed includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (CALWORKS) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her prior baseline income. The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Residents qualifying prior to May 9, 2016 will have the disallowance calculated under the "Original Calculation Method" described below, which requires a maximum lifetime disallowance period of up to 48 consecutive months. Residents qualifying on or after May 9, 2016 will be subject to the "Revised Calculation Method," which shortens the lifetime disallowance period to 24 consecutive months.

Under both the original and revised methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and or the ability of the applicable family member to stop and restart employment during the eligibility period will remain are the same.

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, SCCHA will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period). SCCHA will retain the EID documentation in the resident file for the "duration of tenancy" and up to three (3) years after program participation ends.

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, the SCCHA will exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility clock starts at the same time that the initial exclusion period begins and stops 24 consecutive months later regardless of how many months were used during that 24-month period. If a family member discontinues the employment that initially qualified the family for the EID anytime during that 24-month period, the two-year eligibility clock still continues to run. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

PART II: ASSETS

6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included.

~~There is no asset limitation for participation in the public housing program. However, HUD requires that SCCHA include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, SCCHA will determine the value of the asset to compute income from the asset. Therefore, for each asset type, this section discusses:~~

- ~~• How the value of the asset will be determined~~
- ~~• How income from the asset will be calculated~~

Income from Assets

SCCHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes SCCHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the SCCHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, SCCHA can take into consideration past rental income along with the prospects of obtaining a new resident.

Valuing Assets

~~The calculation of asset income sometimes requires SCCHA to make a distinction between an asset’s market value and its cash value.~~

- ~~• The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).~~
- ~~• The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.~~

SCCHA Policy

~~Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.~~

Lump Sum Receipts

~~Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHHP FAQs].~~

Imputing Income from Assets [24 CFR 5.609(b)(3)]

~~When net family assets are \$5,000 or less, SCCHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, SCCHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.~~

~~Determining Actual Anticipated Income from Assets~~

~~It may or may not be necessary for SCCHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.~~

~~Withdrawal of Cash or Liquidation of Investments~~

~~Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.~~

~~Jointly Owned Assets~~

~~The regulation at 24 CFR 5.609(a) (4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."~~

SCCHA Policy

~~If an asset is owned by more than one person and any family member has unrestricted access to the asset, SCCHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.~~

~~If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, SCCHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, SCCHA will prorate the asset evenly among all owners.~~

6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

[24 CFR 5.603(b)]

HUD regulations require SCCHA to count as a current asset any business or family asset that was disposed of for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years prior to the effective date of the ~~examination/~~application or reexamination, ~~except as noted below~~ in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value [Notice PIH 2023-27].

SCCHA Policy

Will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or resident receives important consideration not measurable in dollar terms.

SCCHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. To qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. [Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.](#)

Family Declaration

SCCHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. SCCHA may verify the value of the assets disposed of if other information available to SCCHA does not appear to agree with the information reported by the family.

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Checking and Savings Accounts

[HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's non-necessary personal property:](#)

- [When the combined value of non-necessary personal property is greater than \\$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.](#)
- [When the combined value of all non-necessary personal property does not exceed \\$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.](#)

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

For regular checking accounts and savings accounts, cash value has the same meaning as market value. If a checking account does not bear interest, the anticipated income from the account is zero.

SCCHA Policy

In determining the value of a checking account, SCCHA will use the current balance ~~and the average monthly balance for the last six months.~~

~~SCCHA will accept a family's declaration of the amount of assets of less than \$5,000 and the amount of income expected to be received from those assets. The documentation in the initial certification packet and the annual reexamination packet, which has the signatures of all adult family members, can serve as the declaration.~~

In determining the anticipated income from an interest-bearing checking or savings account, SCCHA will multiply the value of the account by the current rate of interest paid on the account.

ABLE Accounts

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. SCCHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets:

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g.,

due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

SCCHA Policy

In determining the market value of an investment account, SCCHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), SCCHA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [Public Housing Occupancy Guidebook, p. 121]

SCCHA Policy

In determining the equity, SCCHA will first use the payoff amount of the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the SCCHA will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [Public Housing Occupancy Guidebook, p. 121]. This real estate is considered a business asset, and income related to this asset will be calculated
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [Public Housing Occupancy Guidebook, p. 121]

SCCHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of the real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

For the purpose of calculating expenses to convert to cash for real property, SCCHA will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless SCCHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Asset Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

Lump-Sum Additions to Net family Assets

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. SCCHA must consider any actual or imputed returns from assets as income at the next applicable income examination.

Jointly Owned Assets

For assets owned jointly by the family and one or more individuals outside of the assisted family, SCCHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or

- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Trusts

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, revocable and irrevocable.

Revocable Trusts

~~If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [Public Housing Occupancy Guidebook, p. 121]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.~~ A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets.

For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.

- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. SCCHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

Nonrevocable Trusts

~~In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump sum receipt, as appropriate [24 CFR 5.603(b)].~~

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)].

Where an irrevocable trust is excluded from net family assets, SCCHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Retirement Accounts

~~Company Retirement/Pension: In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, SCCHA must know whether the money is accessible before retirement [Public Housing Occupancy Guidebook, p. 121].~~

~~While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [Public Housing Occupancy Guidebook, p. 121].~~

~~After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump sum receipt, as appropriate Public Housing Occupancy Guidebook, p.~~

~~121], except to the extent that it represents funds invested in the account by the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.~~

~~IRA, Keogh, and Similar Retirement Savings Accounts~~

~~IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [Public Housing Occupancy Guidebook, p. 121].~~

Necessary and Non-Necessary Personal Property

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets.

HUD defines necessary personal property as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

~~Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [Public Housing Occupancy Guidebook, p. 121].~~

~~Necessary items of personal property are not considered assets [24 CFR 5.603(b)].~~

SCCHA Policy

~~Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.~~

Life Insurance

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family's assets [Public Housing Occupancy

Guidebook, p. 121]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the family's total net assets.

Asset Exclusions

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
 - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
 - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and

- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

SCCHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

The calculation of asset income sometimes requires SCCHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

SCCHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the

accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

SCCHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)].

Imputed Income from Assets

When net family assets exceed \$50,000 (adjusted annually by HUD), SCCHA may not rely on self-certification. If actual returns can be calculated, SCCHA must include actual income from the asset (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, SCCHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If SCCHA can compute actual income from some but not all assets, SCCHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

PART III: ADJUSTED INCOME

6-III.A. OVERVIEW

HUD regulations require SCCHA to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory Deductions

In determining adjusted income, SCCHA must deduct the following amounts from annual income:

- \$480 for each dependent, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;
- ~~\$400~~-\$25 for any elderly family or disabled family, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;
- The sum of the following, to the extent the sum exceeds ~~three~~-ten percent of annual income:
 - Unreimbursed health and medical care expenses of any elderly family or disabled family;
 - Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the

family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

- Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

Anticipating Expenses

Generally, SCCHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), SCCHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, SCCHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. SCCHA may require the family to provide documentation of payments made in the preceding year.

6-III.B. DEPENDENT DEDUCTION

A deduction of \$480 (adjusted by HUD annually for inflation) is taken for each dependent [24 CFR 5.611(a)(1)]. Dependent is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$525~~400~~ (adjusted by HUD annually for inflation) is taken for any elderly or disabled family [24 CFR 5.611(a)-(2)]. An elderly family is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a disabled family is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION

[24 CFR 5.611(a)(3)(i)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ~~three-ten~~ percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Definition of Medical Expenses

HUD regulations define health and medical care expenses at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.~~medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”~~”

~~The most current IRS Publication 502, Medical and Dental Expenses, will be used to determine the costs that qualify as medical expenses.~~

Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expenses*. [Notice PIH 2023-27]

6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION

[24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for ~~a disabled family member~~ each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ~~three~~ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, SCCHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When SCCHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

~~Examples of auxiliary apparatus are provided in the PH Occupancy Guidebook as follows:~~

~~“Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals” [PH OCC GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work.~~

Eligible Auxiliary Apparatus [Notice PIH 2023-27]

~~Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible.~~ Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care [Notice PIH 2023-27]

The family determines the type of attendant care that is appropriate for the person with disabilities. ~~Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.~~ Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, SCCHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability expenses may be deducted for payments to a member of a resident family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the resident family may be deducted if they are

reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

SCCHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, SCCHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and SCCHA will consider, the family's justification for costs that exceed typical costs in the area.

6-III.F. CHILD CARE EXPENSE DEDUCTION

HUD defines child care expenses at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity. The term eligible activity in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, SCCHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by SCCHA.

Furthering Education

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training Program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)]. The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, childcare expenses are limited to \$5,000.

SCCHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [Public Housing Occupancy Guidebook, p. 123].

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the SCCHA will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the resident family. SCCHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

Allowable Child Care Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, SCCHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, SCCHA may use the schedule of childcare costs from the local welfare agency. Families may present, and the SCCHA will consider, justification for costs that exceed typical costs in the area.

6-III.G. HARDSHIP EXEMPTIONS

[24 CFR 5.611(c), (d), and (e); *Health and Medical Care and Disability Assistance Expenses* [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as

of January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.

When an eligible family's phased-in relief begins at an interim reexamination, SCCHA will need to process another transaction one year later to move the family along to the next phase.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in SCCHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

SCCHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. SCCHA must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

SCCHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, SCCHA may, at its discretion, extend the relief

for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

SCCHA Policy

SCCHA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with SCCHA policies.

Examples of *circumstances* constituting a financial hardship may include the following situations:

- The family's health and medical and/or disability assistance expenses have increased unexpectedly;
- The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;
- The family would be evicted because it is unable to pay rent;
- The income of the family has decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances that seriously affect the family's ability to pay rent.

The family may request an extension in writing prior to the end of the hardship exemption period. SCCHA will extend relief for an additional 90 days if the family demonstrates to SCCHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. SCCHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, SCCHA may terminate the hardship exemption if SCCHA determines that the family no longer qualifies for the exemption.

Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to SCCHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, SCCHA must recalculate the family's adjusted income and continue the child care deduction.

SCCHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. SCCHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

If SCCHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to SCCHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, SCCHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

SCCHA Policy

SCCHA defines hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Examples of circumstances constituting a financial hardship may include the following situations:

- The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;
- The family would be evicted because it is unable to pay rent;
- The income of the family has decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances that seriously affect the family's ability to pay rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. SCCHA will consider qualification under this criterion on a case-by case basis.

The family may request an extension in writing prior to the end of the hardship exemption period. SCCHA will extend relief for an additional 90 days if the family demonstrates to SCCHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. SCCHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, SCCHA may terminate the hardship exemption if SCCHA determines that the family no longer qualifies for the exemption.

PART IV: CALCULATING RENT

6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the resident rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a resident family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part III)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent of \$50 [24 CFR 5.630]

Utility Reimbursement [24 CFR 960.253(c)(3)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. SCCHA will make utility reimbursements to the family on a monthly basis.

6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT

[24 CFR 5.630]

SCCHA will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship. The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the SCCHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
- A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.
- The family would be evicted because it is unable to pay the minimum rent. For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.
- Family income has decreased because of changed family circumstances, including the loss of employment.
- A death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, SCCHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

SCCHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term. SCCHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

SCCHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP.

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent. SCCHA will make the determination of the hardship within 30 calendar days.

No Financial Hardship

If SCCHA determines there is no financial hardship, the SCCHA will reinstate the minimum rent and require the family to repay the amounts suspended. SCCHA will require the family to repay the suspended amount within 30 calendar days of the SCCHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If SCCHA determines that a qualifying financial hardship is temporary, SCCHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay SCCHA the amounts suspended. HUD requires the SCCHA to offer a reasonable repayment agreement, on terms and conditions established by SCCHA. SCCHA also may determine that circumstances have changed, and the hardship is now a long-term hardship. SCCHA will enter into a repayment agreement in accordance with the SCCHA's repayment agreement policy.

Long-Term Hardship

If the SCCHA determines that the financial hardship is long-term, the SCCHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

The hardship period ends when any of the following circumstances apply:

- At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred

6-IV.C. UTILITY ALLOWANCES

[24 CFR 965, Subpart E]

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the SCCHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

6-IV.D. PRORATED RENT FOR MIXED FAMILIES

[24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The SCCHA must prorate the assistance provided to a mixed family. The SCCHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the SCCHA must:

- Subtract the TTP from the flat applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
- Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- Multiply the member maximum subsidy by the number of eligible family members.
- Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
- Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.
- The revised public housing flat rents will be applied to a family's rent calculation at the first annual reexamination after the revision is adopted.
- When the mixed family's TTP is greater than the applicable flat rent, SCCHA must use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

CHAPTER 7 – VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

SCCHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance.

SCCHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary SCCHA policies. ~~SCCHA will follow the verification guidance as outlined in this chapter.~~

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by SCCHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that SCCHA determines is necessary to the administration of the program and must consent to SCCHA verification of that information. It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and provides the family's consent only for the specific purposes listed on the form. Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of SCCHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to SCCHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;

- When a current member of the family turns 18; or
- As required by HUD or SCCHA in administrative instructions.

SCCHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

SCCHA Policy

Family members turning 18 years of age between reexaminations will be required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and SCCHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

SCCHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever SCCHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed consent form (HUD-9886) will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to SCCHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, SCCHA will deny admission to applicants and terminate the lease of tenants.

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

SCCHA Policy

SCCHA will not terminate assistance if the family revokes consent to allow SCCHA to access records from financial institutions. However, the family is required to sign a new consent form by the next annual or interim reexamination, whichever occurs first, in order to avoid termination of assistance.

7-I.B. HIERACHY OF VERIFICATION REQUIREMENTS

[24 CFR ~~982.516 (a) (2)~~ 960.259(c)]

HUD requires SCCHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires SCCHA to use the most reliable form of verification that is available and to document the reasons when SCCHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. SCCHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
 - Written third-party verification from the source, also known as “tenant-provided verification”
 - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

● ~~Written Third Party Verification/ Up-front income verification~~

● ~~Original third party documents~~

● ~~Oral Third party Verification~~

● ~~Self-Certification~~

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

SCCHA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within ~~90~~ 120 days of the date they are provided to SCCHA. The documents must not be damaged, altered or in any way illegible.

Printouts from web pages are considered original documents.

SCCHA staff member who views the original document must make a photocopy of the document for the file.

Any family self-certifications must be made in a format acceptable to SCCHA and must be signed in the presence of a SCCHA representative or SCCHA notary public.

File Documentation

SCCHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that SCCHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or auditor to understand the process followed and conclusions reached.

SCCHA Policy

SCCHA will document, in the family file, the following:

- Family composition
- Reported family annual income
- Value of assets
- Other factors influencing the adjusted income

When SCCHA is unable to obtain third-party verification, SCCHA will document in the family file the reason that third-party verification was not available and retain documenting of attempts made to obtain such information.

7-I.C. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to SCCHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to SCCHA.

There may be legitimate differences between the information provided by the family and UIV generated information.

SCCHA Policy

SCCHA will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process.

7-I.D. LEVEL 4 VERIFICATION: TENANT-PROVIDED ~~THIRD-PARTY WRITTEN AND ORAL~~ VERIFICATION

~~There are two types of written third party verification. The preferable form, "written third party verification,"~~ Written third-party verification from the source, also called "tenant-provided verification", consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to SCCHA by the family. ~~If written third party verification is not available, SCCHA must attempt to~~

~~obtain a “written third-party verification form.” This is a standardized form used to collect information from a third party.~~

Written Third-Party Verification

~~Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.~~

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

SCCHA is required to obtain, at minimum, ~~three months~~ two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, SCCHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

SCCHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

SCCHA Policy

Third-party documents provided by the family must be dated within ~~90~~120 days of SCCHA request date. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable.

If SCCHA determines that third-party documents provided by the family are not acceptable, SCCHA will explain the reason to the family and request additional documentation.

~~As verification of earned income,~~When paystubs are used, SCCHA will require the family to provide the ~~three months~~four most current and consecutive pay stubs. At SCCHA’s discretion, if additional paystubs are needed due to the family’s circumstances (e.g., sporadic income, fluctuating schedule, etc.), SCCHA may request additional paystubs or a payroll record.

When verification of assets held by a banking or financial institution is required, SCCHA will obtain one statement that reflects the current balance of the account.

7-I.E. LEVEL 3 VERIFICATION: WRITTEN THIRD-PARTY VERIFICATION FORM

When upfront verification is not available, and the family is unable to provide written third-party documents, SCCHA must request a written third-party verification form. SCCHA will mail, fax, or e-mail third-party written

verification form requests to third-party sources. SCCHA may skip this level of verification and may instead substitute oral third-party verification (Level 2) before moving to self-certification (Level 1).

SCCHA Policy

SCCHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when ~~third-party verification documents~~ tenant-provided documents are unavailable or are rejected by SCCHA.

On a case-by-case basis, SCCHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

~~Third-party verification forms will always be sent to verify earned income.~~

~~Third-party verifications will always be sent for each reported asset when the total family assets are over \$5,000.~~

7-I.F. LEVEL 2 VERIFICATION: ORAL THIRD-PARTY VERIFICATION

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

SCCHA will document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

SCCHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

SCCHA Policy

If written third-party verification forms are not returned within a reasonable time, SCCHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if SCCHA chooses to obtain ~~in-collecting~~ third-party oral verification, SCCHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

~~When any source responds verbally to the initial written request for verification SCCHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.~~

7-I.G. LEVEL 1 VERIFICATION: SELF-CERTIFICATION

Self-certification, or “tenant declaration,” is used as a last resort when SCCHA is unable to obtain third-party verification.

When SCCHA relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

SCCHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to SCCHA.

SCCHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to SCCHA and must be signed by the family member whose information or status is being verified. ~~All self-certifications must be signed in the presence of a SCCHA representative or SCCHA notary public.~~

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

SCCHA Policy

SCCHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where there are reasonable doubts relating to the identity of a person representing him or herself to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS

[24 CFR 5.216 and Notice PIH 2023-27]

The family must provide documentation of a valid social security number (SSN) for each member of the household, except for individuals who do not contend eligible immigration status.

SCCHA will accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

SCCHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

SCCHA may accept self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual. If verifying an individual's SSN using this method, SCCHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match in EIV, then SCCHA must obtain valid documentation of SSN. The tenant's assistance must be terminated if they fail to provide the required documentation.

When a resident requests to add a new household member the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. SCCHA will not add the new household member until such documentation is provided.

SCCHA Policy

SCCHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted and retaining a copy in the file folder

7-II.C. VERIFICATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members.

SCCHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, SCCHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in Chapter 4.

SCCHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

SCCHA Policy

Certification by the head of household is normally sufficient verification. If there is a reasonable doubt about a marital relationship, SCCHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

SCCHA Policy

Certification by the head of household is normally sufficient verification. If there is a reasonable doubt about a divorce or separation, SCCHA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation. If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

SCCHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

SCCHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

SCCHA Policy

SCCHA requires families to provide information about the student status of each family member. Student status of members will be verified to determine if they are considered full-time students as defined by the educational institution. Full time student is anyone who was enrolled full time for any 5 months within a calendar year.

7-II.F. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continued occupancy.

U.S. Citizens and Nationals

SCCHA requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

SCCHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals. The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S. and the conditions under which eligible immigration status has been granted.

SCCHA Verification

For family members who claim to be eligible immigrants, SCCHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS). SCCHA will follow all USCIS protocols for verification of eligible immigration status.

PART III: VERIFYING INCOME AND ASSETS

This section describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides SCCHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

SCCHA Policy

Unless tip income is included in a family member's W-2 by the employer, or on the third-party verification, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

SCCHA Policy

For wages other than tips, the family must provide 4 (four) most current and consecutive pay stubs.

Cash Payments

~~In addition to a third-party verification of employment, 4 (four) most current consecutive pay stubs are required at move-in. If the tenant is claiming that they do not receive paystubs as they are paid in cash, the IRS has determined that those individuals are considered "independent contractors" and as such should file a 1040 tax return. SCCHA will require a copy of the 1040 filing for the tenant and a third-party statement from the employer on company letterhead, indicating the name of the tenant, the position title, and how much the employer pays the tenant in cash each week. If the tenant is claiming that he/she does not file tax returns, SCCHA will require a copy of completed IRS Form 4506-T indicating the tenant did not file taxes with the IRS in place of the 1040 Return. The statement from the employer will still be required in addition to the 4506-T.~~

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

SCCHA Policy

Business owners and self-employed persons will be required to provide:

- ~~• An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted, and the business owner or self-employed person must certify to its accuracy.~~
- Tax form 1040, including **A**all schedules completed for filing federal and local taxes in the preceding year; **or**
- **I**ncome/expense reports for the most recent four (4) earning periods (weekly, monthly, semi-monthly).
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination SCCHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

For newly established employment with less than four earning periods: income/expense report(s) and written self-certification from the business owner or self-employed person. ~~If a family member has been self-employed less than three (3) months, SCCHA will accept the family member's certified estimate of income. If the family member has been self-employed for three (3) to twelve (12) months SCCHA will require the family to provide documentation of income and expenses for this period and use that information to project income.~~

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

SCCHA Policy

To verify the SS/SSI benefits of applicants, SCCHA will request a current ~~(dated within the last 60 days)~~ SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, SCCHA will help the applicant request a benefit verification letter from SSA's website at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the original benefit verification letter, it will be required to provide the letter to SCCHA.

7-III.D. ALIMONY OR CHILD SUPPORT

SCCHA Policy

The methods SCCHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments. If the family declares that it **receives regular payments**, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the ~~60 days~~12 months prior to SCCHA's request
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received

If the family declares that it **receives irregular or no payments**, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

SCCHA Policy

SCCHA will require third-party verification that income sources will not be repeated in the coming year. However, SCCHA may choose on a case-by-case basis to accept self-certification.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), SCCHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. SCCHA must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis. When net family assets have a total value over \$50,000, SCCHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, SCCHA is required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

SCCHA Policy

SCCHA will require third-party verification of net family assets at admission and every reexamination.

In determining the value of checking or savings accounts, SCCHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, SCCHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

SCCHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 4 and 12. At admission and reexam, SCCHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, SCCHA must obtain third-party verification.

SCCHA Policy

Both at admission and reexam, SCCHA will accept self-certification from the family that the family does not have any present ownership in any real property. SCCHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, SCCHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has

effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, SCCHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. SCCHA needs to verify only those certifications that warrant documentation.

SCCHA Policy

SCCHA will verify the value of assets disposed of only if:

- SCCHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

7-III.H. NET INCOME FROM RENTAL PROPERTY

SCCHA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant.
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, SCCHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

7-III.J. RETIREMENT ACCOUNTS

SCCHA Policy

In addition to third party verifications SCCHA will accept written third-party documents supplied by the family as supplemental evidence of the status of retirement accounts.

7-III.K. INCOME FROM EXCLUDED SOURCES

For fully excluded income, SCCHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, SCCHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income.

SCCHA Policy

SCCHA will accept the family's self-certification as verification of fully excluded income. SCCHA may request additional documentation if necessary to document the income source.

SCCHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

EXHIBITS

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to SCCHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 year of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

<ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> ▪ “Admitted as a Refugee Pursuant to Section 207” ▪ “Section 208” or “Asylum” ▪ “Section 243(h)” or “Deportation Stayed by Attorney General” ▪ “Paroled Pursuant Section 221 (d)(5) of the USCIS 	<ul style="list-style-type: none"> • Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> ▪ A final court decision granting asylum (but only if no appeal is taken); ▪ A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); ▪ A court decision granting withholding of deportation; or ▪ A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
--	--

Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register

CHAPTER 8 - LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966.4]

INTRODUCTION

All units must be occupied pursuant to Resident Lease Agreement that complies with HUD's regulations [24 CFR Part 966]. This chapter describes SCCHA policies pertaining to lease execution, terms of Lease Agreement, security deposits, rent payments, inspection of units, and additions to the lease.

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

SCCHA will inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, SCCHA may conduct additional inspections in accordance with SCCHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and SCCHA policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes SCCHA policies for inspecting dwelling units.

PART I: LEASING

8-I.A. LEASING ORIENTATION

Upon execution of the lease, SCCHA will conduct a lease orientation for all adult members of the household. All adult family members must attend an orientation before taking occupancy of the unit. Families will be provided with the following information during the lease orientation:

SCCHA Policy

Families will be provided with the following information during the lease orientation:

- A copy of the lease
- A copy of SCCHA's grievance procedure
- A copy of the house rules
- A copy of SCCHA's schedule of maintenance charges
- Information about the protections afforded by the Violence against Women Act (VAWA) to victims of domestic violence, dating violence, and stalking

Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges
- Review and explanation of lease provisions
- Unit maintenance requests and work orders

- Changes to family changes of family composition and income
- Review and explanation of occupancy forms
- After hours contact information
- Smoke-free policies
- Lead Based paint disclosure

8-I.B. TERM OF THE LEASE

The term of the lease must be for a period of 12 months. The lease will be renewed automatically for another 12-month term, unless good cause exists not to renew the lease. SCCHA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

8-I.C. EXECUTION OF THE LEASE

The lease must be executed by the tenant and SCCHA, except for automatic renewals of a lease. A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one unit to another.

The lease must state the composition of the household as approved by SCCHA (family members and any SCCHA approved live-in aide).

SCCHA Policy

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and SCCHA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to assistance or tenancy. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care. Live-in aide is required to execute a lease addendum authorizing the arrangement and describing the status of the attendant [24 CFR 966.4(a)(1)(v)].

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and SCCHA.

Modifications to the Lease Form [24 CFR 966.4(a)(3)]

SCCHA may modify its lease from time to time. However, SCCHA must give residents at least thirty (30) days' notice of the proposed changes.

A resident's refusal to accept permissible and reasonable lease modifications is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iv)(e)].

SCCHA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30-days timeframe, the family's tenancy will be terminated for other good cause in accordance with this policy.

Other Modifications

SCCHA Policy

The lease will be amended to reflect all changes in family composition. SCCHA will provide the family with a lease addendum for family composition changes if the addition or removal of a minor household member. If the new member of the household, or the member of the household being removed is an adult a new lease will be executed. Policies governing when and how changes in family composition must be reported are contained in the Reexaminations Chapter of this policy.

8-I.E. SECURITY DEPOSITS

[24 CFR 966.4(b)(5)]

At the option of SCCHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by SCCHA. SCCHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit or used for tenant services or activities.

SCCHA Policy

SCCHA will refund the security deposit, less any amounts owed, as required by California State Law, within 21 days, following the end of the 30 day-notice of intent to vacate, once the resident has turn in keys, or once the unit is found vacant whichever comes first.

Per California Department of Consumer Affairs - Under California law, 21 calendar days or less after a resident move, the landlord must either:

- Send the resident a full refund of the security deposit, or
- Mail or personally deliver to the resident an itemized statement that lists the amounts of any deductions from the security deposit and the reasons for the deductions, together with a refund of any amounts not deducted.

When a family transfers from one unit to another, SCCHA will assess the charges for any maintenance or other charges due for the "old" unit against the tenant's security deposit. Before moving into the new unit, the tenant is required to either pay the new security deposit in full or enter into a promissory note to pay the security deposit for the new unit in accordance with repayment agreements.

Once SCCHA determines the balance of the security deposit for the “old” unit that is to be returned to the family, that balance will be applied to the amount due for the security deposit for the new unit, resulting in a decrease of the amount owed under the promissory note.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by SCCHA in accordance with regulations.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and SCCHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

SCCHA Policy

The tenant rent is due and payable at SCCHA-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family’s tenant rent changes, SCCHA will notify the family of the new amount and the effective date by sending an "Amendment to the Residential Lease" which will become an attachment to the lease.

Late Fees and Nonpayment

At the option of SCCHA the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

SCCHA Policy

If the family fails to pay their rent by the fifth day of the month, and SCCHA has not agreed to accept payment at a later date, a 3-day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of \$20.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 30 calendar days after billing. If the family requests a grievance hearing within the required timeframe, SCCHA may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid. A returned check fee will be charged to the family. The fee will be due and payable 30 days after billing.

Maintenance and Damage Charges

A schedule of charges for maintenance services and repairs which is incorporated into the lease by reference shall be publicly posted in a conspicuous manner in the management office. Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.A. OVERVIEW

SCCHA will inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, SCCHA may require additional inspections, in accordance with this policy. This part contains SCCHA's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections

SCCHA must inspect the dwelling unit prior to occupancy to determine the condition of the unit and equipment in the unit. The resident will also view the unit prior to lease signing. A copy of the initial inspection, signed by SCCHA and the resident, will be kept in the resident file.

Move-Out Inspections

SCCHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to SCCHA. SCCHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear. The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

SCCHA Policy

SCCHA will conduct a pre-move out inspection when the family gives written notice that they will vacate the unit. SCCHA will also conduct a move-out inspection at the time the resident vacates the unit. When applicable, SCCHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear and refund the remaining security deposit amount within 21 calendar days of conducting the move-out inspection.

Annual Inspections

SCCHA is required to inspect all occupied units annually.

Special Inspections

SCCHA Policy

SCCHA may conduct a special inspection for housekeeping, unit condition, suspected lease violation.

Quality Control Inspections

SCCHA will conduct periodic quality control inspections based on random sampling to determine the condition of the unit and to identify problems or issues in which SCCHA can be of service to the family and to assure that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

Other Inspections

SCCHA Policy

Building exteriors, grounds, common areas and systems will be inspected according to SCCHA's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries

SCCHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of SCCHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

SCCHA Policy

SCCHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

SCCHA will request permission to enter the unit to repair items when the family requests repairs. If the family does not grant permission to enter the unit, then an adult member must be present in order for SCCHA to enter the unit and make repairs.

If no family member is present at the scheduled time for unit entry, SCCHA will charge the family for staff time.

Emergency Entries

SCCHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an Emergency entry, SCCHA will leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

SCCHA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify SCCHA at least 24 hours prior to the scheduled inspection. SCCHA will reschedule the inspection no more than once without a charge unless the resident has a verifiable good cause to delay the inspection. SCCHA may request verification of such cause.

Attendance at Inspections

Residents are not required to be present for inspections.

8-II.D. INSPECTION RESULTS

SCCHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units.

Emergency Repairs

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify SCCHA of the damage, and SCCHA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, SCCHA must charge the family for the reasonable cost of repairs. SCCHA may also take lease enforcement action against the family.

If SCCHA cannot make repairs quickly, SCCHA must offer the family standard alternative Accommodations. If SCCHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

SCCHA Policy

When conditions in the unit are hazardous to life, health, or safety, SCCHA will make repairs within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 55 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke or carbon monoxide detectors

Non-emergency Repairs

SCCHA Policy

SCCHA will correct non-life-threatening health and safety defects within 15 business days of the inspection date. If SCCHA is unable to make repairs within that period due to circumstances beyond SCCHA's control (e.g. required parts or services are not available, weather conditions, etc.) SCCHA will notify the family of an estimated date of completion.

The family must allow SCCHA access to the unit to make repairs.

Resident-Caused Damages

SCCHA Policy

- Damages to the unit beyond wear and tear will be billed to the tenant.
- Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

SCCHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, SCCHA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector or carbon monoxide detector. Only one warning will be given. A second incidence will result in lease termination.

CHAPTER 9 - REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

SCCHA is required to reexamine each family's income and composition. This chapter discusses both regularly scheduled reexaminations and interim reexaminations.

Part I: Regularly Scheduled Reexaminations. This part discusses the requirements for regularly scheduled reexamination of income and family composition. Full reexaminations are conducted once every three years for households with only fixed income sources and once every two years for all other households.

Part II: Interim Reexaminations. This part includes requirements and SCCHA policies related to when a family may and must report changes that occur between regularly scheduled reexaminations.

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

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

PART I: REGULARLY SCHEDULED REEXAMINATIONS

[24 CFR 960.257 as amended by MTW]

9-I.A. OVERVIEW

SCCHA must conduct a reexamination of income and family composition once every three years for households with only fixed income sources and once every two years for all other households. To assure that tenancy in the housing units is targeted to families meeting the eligibility requirements for continued occupancy that such families are charged appropriate rents, and for compliance with Occupancy Rules, the eligibility status and the Family Income of each tenant household is to be reexamined and re-determined during the reexamination.

SCCHA is required to obtain all of the information necessary to conduct reexaminations. Families are required to provide current and accurate information on income, assets, and family composition as part of the reexamination process. This part contains SCCHA's policies for conducting regularly scheduled reexaminations.

9-I.B. SCHEDULING ~~ANNUAL~~ REGULAR REEXAMINATIONS

SCCHA Policy

A family must attend a scheduled reexamination appointment as notified by SCCHA. Families, who receive income solely from Social Security, Supplemental Security Income, Veterans Benefits, Cash Assistance Program

for Immigrants (CAPI), retirement pensions and/ or have 100% excluded income will have their income and family composition reexamined every three years. For all other eligible families, reexamination will take place every two years.

Notification of and Participation in the Regularly Scheduled Reexamination Process

SCCHA is required to obtain information needed to conduct regularly scheduled reexaminations.

SCCHA Policy

All household adults as well as approved live-in aides are required to attend the regularly scheduled reexamination interview together. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact SCCHA to request a reasonable accommodation.

Notification of regularly scheduled reexamination interviews will be mailed and will include the date, time, and location of the interview. In addition, it will inform the family of the information and a list of documents that must be brought to the interview.

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

9-I.C. CONDUCTING REGULARLY SCHEDULED REEXAMINATIONS

[24 CFR 982.516 (a)(1)]

The terms of the lease require the family to furnish information regarding income, assets and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit.

SCCHA Policy

If a family is unable to obtain the information or documentation needed to complete their reexamination within 15 days, the family may request an extension. Any required documents or information that the family is unable to provide at the time of the interview must be provided within 30 calendar days of the interview, or as requested by SCCHA. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 12.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. SCCHA may use the results of the regularly scheduled reexamination to require the family to move to an appropriate size unit.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction.

SCCHA Policy

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

9-I.D. EFFECTIVE DATES

As part of the regularly scheduled reexamination process, SCCHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

SCCHA Policy

An increase in the tenant rent that results from a regularly scheduled reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

PART II: INTERIM REEXAMINATIONS

[24 CFR 960.257(b), 24 CFR 966.4, and Notice PIH 2023-27 as amended by MTW]~~[24 CFR 982.516 (b) (3)]~~

9-II.A. OVERVIEW

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

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

Reporting

SCCHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards.

SCCHA Policy

~~Families are required to report the following changes in writing within ten (10) days of occurrence.~~

All families must report all changes in family and household composition that occur between regularly scheduled reexaminations **within 15 calendar days of occurrence**. SCCHA will ~~conduct interim reexaminations to account for any~~ process changes in household composition that occur between regularly scheduled reexaminations.

New Family Members Not Requiring Approval

The addition of a family member because of birth, adoption, or court-awarded custody does not require SCCHA approval. However, the family is required to promptly notify SCCHA of the addition.

SCCHA Policy

The family must inform SCCHA of the birth, adoption, or court-awarded custody of a child within ~~30~~**15** calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request SCCHA approval to add a new family or other household member (live-in aide or foster child).

SCCHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which SCCHA consent will be given or denied. Under such policies, the factors considered by SCCHA may include:

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

SCCHA Policy

Families must request SCCHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for no more than 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a “guest.”

SCCHA will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation that should be considered by SCCHA. Exceptions will be made on a case-by-case basis.

SCCHA will not approve the addition of a new family or household member unless the individual meets SCCHA’s eligibility criteria and documentation requirements.

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

Departure of a Family or Household Member

SCCHA Policy

If a family member ceases to reside in the unit, the family must inform SCCHA within ~~ten (10)~~ 15 calendar days of occurrence. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult does not reside in the unit, the family must inform SCCHA within ~~ten (10)~~ 15 calendar days of occurrence.

9-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Reporting

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

SCCHA-initiated Interim Reexaminations

~~SCCHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by SCCHA. They are not scheduled because of changes reported by the family.~~

SCCHA Policy

~~SCCHA will conduct interim reexaminations in each of the following instances:~~

- ~~• For families receiving the Earned Income Disallowance (EID), SCCHA will conduct an interim reexamination at the start and conclusion of the second 12 months exclusion period (50 percent phase-in period).~~
- ~~• If the family has reported zero income or that they receive less than \$3000 annual income (gross income after exclusions), SCCHA will conduct an interim reexamination~~
- ~~• If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), SCCHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.~~

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

Family-Initiated Interim Reexaminations

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

Required Reporting

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

SCCHA Policy

Families are required to report all ~~increases~~ changes in income within ~~ten (10)~~ 15 calendar days of occurrence.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27] Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination ~~[24 CFR 960.257(b)]~~. However, SCCHA may decline to conduct an interim reexamination if SCCHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. SCCHA may set a lower threshold in SCCHA policy such as performing

an interim for any decreases in adjusted income, although HUD prohibits SCCHA from setting a dollar-figure threshold.

However, while SCCHA has some discretion, HUD requires that SCCHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, SCCHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then SCCHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

~~SCCHA must process the request if the family reports a change that will result in a reduced family income.~~

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

SCCHA Policy

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

Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27 as amended by MTW]

SCCHA Policy

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

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

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances SCCHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. SCCHA is required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When SCCHA makes an initial determination that a family is over-income during an interim reexamination, SCCHA must conduct a second 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. This continued evaluation of the family's over-income status requires SCCHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does

not reset the family's normal annual reexamination date. See Section 12-II.F. for continued occupancy policies for over-income families.

9-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

SCCHA Policy

The family may notify SCCHA of changes only in writing.

The family will be required to attend an interview for an interim reexamination.

Based on the type of change reported, SCCHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 30 calendar days or as requested by SCCHA. This time frame may be extended for good cause with PHA approval. SCCHA will accept required documentation by mail, by fax, or in person.

9-II.E. EFFECTIVE DATES

Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with SCCHA policies:

- For rent increases, SCCHA must provide the family with 30 days' advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with SCCHA policies:

- For rent increases, SCCHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, SCCHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, SCCHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

SCCHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, SCCHA will apply the decrease the first of the month following completion of the interim reexamination.

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

SCCHA Policy

~~If the family share of the rent is to increase:~~

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

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

~~If the family share of the rent is to decrease:~~

~~The decrease will be effective on the first day of the month following the month in which the change was reported, required documentation was submitted, and the change was verified.~~

PART III: RECALCULATING TENANT RENT

9-III.A. OVERVIEW

For those families paying income-based rent, SCCHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257].

9-III.B. CHANGES IN UTILITY ALLOWANCES

The tenant rent calculations must reflect any changes in SCCHA's utility allowance schedule [24 CFR 960.253(c)(3)].

SCCHA Policy

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

9-III.C. NOTIFICATION OF NEW TENANT RENT

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

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

SCCHA Policy

The notice to the family will include the effective date of the change and the revised tenant rent.

9-III.D. DISCREPANCIES

During a regularly scheduled or interim reexamination, SCCHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, SCCHA may discover errors made by SCCHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with this ACOP. [If the family was overcharged due to a SCCHA-caused error, SCCHA will provide the family rent credit for the amount they overpaid. If the family was undercharged due to a SCCHA-caused error, SCCHA will not require the family to pay back the difference.](#)

CHAPTER 10 – ASSISTANCE ANIMALS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

The purpose of this policy is to establish SCCHA policy and procedures on the keeping of approved Assistance Animals and describe any criteria or standards pertaining to pet ownership. The rules adopted are reasonably related to the legitimate interest of SCCHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of SCCHA. Nothing in this policy or the dwelling lease limits or impairs the right of persons with disabilities to own animals that are used to assist them.

PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 960.705]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals. Only assistance animals are allowed.

Assistance animals are animals that assist, support, or provide service to a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to SCCHA's pet policies described in Part II of this chapter.

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal.

SCCHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether the animal performs the assistance or provides the benefit needed by the person with the disability.

SCCHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

SCCHA has the authority to regulate assistance animals under applicable federal, state, and local law.

SCCHA Policy

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and SCCHA approve a reasonable accommodation.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority SCCHA may have to regulate service animals and assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

SCCHA Policy

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, SCCHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If SCCHA determines that no such accommodation can be made, SCCHA may withdraw the approval of a particular assistance animal.

No pets are permitted at the property. Only approved assistance animals are permitted.

CHAPTER 11 – COMMUNITY SERVICES

[24 CFR Part 960 Subpart F and 24 CFR 903.7]

INTRODUCTION

This chapter explains HUD regulations requiring SCCHA to implement a community service program for all non-exempt adults living in public housing.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, SCCHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. REQUIREMENTS

Except for any adult resident who is an exempt individual, each adult resident of public housing shall:

- Contribute eight (8) hours per month of community service (not including Political activities); or
- Participate in an economic self-sufficiency program (as defined in the regulations) for eight (8) hours per month; or
- Perform eight (8) hours per month of combined activities. (community service and economic self-sufficiency programs).

The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

SCCHA shall provide an exemption from the community service requirement for any adult resident who meets the following HUD exemption criteria:

- Is 62 years of age or older;
- Is a blind or disabled individual, as defined under section 216(l)(1) of 1614 of the Social Security Act (42 U.S.C. 416 (l)(1); 1382c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or:
- Is a primary caretaker of such individual;
- Is engaged in a work activity as defined in section 407(d) of the Social Security Act; FH will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet the requirements under a state program funded under part A of Title IV of the Social Security Act, or under any other welfare program of the State in which the public housing authority is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the FH is located, including a state-administered welfare-to-work program, and the supplemental nutrition assistance program (SNAP) and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a part-time student enrolled in at least 6 credits and is working part-time at least 15 hours a week.

11-I.B. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE

[24 CFR 960.605(c)(3)]

SCCHA must review and verify family compliance with community service requirements annually at least thirty (30) days before the end of the twelve-month lease term. The policy for documentation and verification of compliance with community service requirements may be found at in Section 11.3 Documentation and Verification.

Where the lease term does not coincide with the effective date of the annual reexamination, FH will change the effective date of the annual reexamination to coincide with the lease term. In making this change, FH will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Family violation of service requirement: The lease shall specify that it shall be renewed automatically for all purposes, unless the family fails to comply with the service requirement [24 CFR 960.603].

CHAPTER 12 - LEASE TERMINATIONS

[24 CFR 966.4]

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. SCCHA has the authority to terminate the lease because of the family's failure to comply with regulations, for serious or repeated violations of the terms of the lease, and for other good cause.

When determining policy on terminations of the lease, SCCHA must consider state and local landlord-tenant laws. 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 termination of the lease by SCCHA.

PART I: TERMINATION BY TENANT

12-I.A. TENANT CHOOSES TO TERMINATE THE LEASE

[24 CFR 966.4(k)(l)(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 site office or SCCHA central office or sent by pre-paid first-class mail, properly addressed.

SCCHA Policy

If a family desires to move and terminate their tenancy with SCCHA, they must give at least 30 calendar days advance written notice to SCCHA of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control SCCHA, at its discretion, may waive the 30-day requirement. The notice of lease termination must be signed by the head of household, spouse, or cohead.

PART II: TERMINATION BY SCCHA - MANDATORY

12-II.A. OVERVIEW

Termination of the lease is permissible by SCCHA for good cause. SCCHA may not terminate the tenancy, the lease or rental agreement of a tenant except for good cause, including a serious or repeated violation of the material terms and conditions of the Lease, or a violation of applicable Federal, State, or local law. To terminate the tenancy SCCHA must provide written notice to the tenant of the grounds with sufficient specificity to enable the tenant to prepare a defense. The notice must be served at least three days before the termination of tenancy and must comply with all requirements of California law and other applicable programs.

12-II.B. FAILURE TO ACCEPT SCCHA’S OFFER OF A LEASE REVISION

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

- SCCHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- SCCHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

12-II.C. METHAMPHETAMINE CONVICTION

[24 CFR 966.4(l)(5)(i)(A)]

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

SCCHA Policy

SCCHA will terminate the lease if SCCHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on any premises, whether federally assisted or not.

12-II.D. LIFETIME REGISTERED SEX OFFENDERS

[Notice PIH 2012-28]

SCCHA will terminate a lease if SCCHA determines that any household member is subject to any sex offender registration requirement.

12-II.E. DEATH OF A SOLE FAMILY MEMBER

[Notice PIH 2012-10]

SCCHA must immediately terminate tenancy for deceased single member households.

12-II.F. 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 income exceeds the over-income limit for 24 consecutive months. When this occurs, SCCHA must either:

- Terminate the family’s tenancy within six months of SCCHA’s final notification of the end of the 24-month grace period; or
- Within 60 days of SCCHA’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.

However, a PHA that owns or operates fewer than 250 public housing units may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, SCCHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.

SCCHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, SCCHA will terminate the family’s tenancy effective six months after the end of the 24-month grace period.

Over-Income Limit [Notice PIH 2023-03]

SCCHA 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.

SCCHA Policy

SCCHA 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.

Family Size	1	2	3	4	5	6	7	8
Over-Income Limit	\$154,920	\$177,000	\$199,080	\$221,160	\$238,920	\$256,560	\$274,320	\$291,960

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, SCCHA determines that the family’s income is below the over-income limit, SCCHA’s over-income policies no longer apply to the family. If SCCHA 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.

SCCHA 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 SCCHA policy in Chapter 9.

If an over-income family is facing termination after exceeding the grace period, the family may request an interim reexamination, but a decrease in income and the family’s rent will not reset the period before termination or enable the family to avoid termination.

Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]

If SCCHA determines the family has exceeded the over-income limit during an annual or interim reexamination, SCCHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. 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 SCCHA following its continued occupancy policy for over-income families. SCCHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time of SCCHA's determination that the family has exceeded the over-income limit.

SCCHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 30 days of the determination, SCCHA 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, SCCHA will terminate the family's tenancy effective six months after the 24-month grace period. The notice will state that the family may request a hearing if the family disputes SCCHA's determination in accordance with SCCHA policies in Chapter 13.

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

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

If SCCHA determines the family continues to exceed the over-income limit for 12 consecutive months, SCCHA 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 exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in SCCHA following its continued occupancy policy for over-income families.

SCCHA Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 30 days of the determination, SCCHA 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, SCCHA will terminate the family's tenancy effective six months after the 24-month grace period. The notice will also state that the family may request a hearing if the family disputes SCCHA's determination in accordance with SCCHA policies in Chapter 13.

Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27]

Unless SCCHA determined the family's income fell below the over-income limit since the second over-income determination, SCCHA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When SCCHA makes an initial determination that a family is over-income during an interim reexamination, SCCHA 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, SCCHA 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 SCCHA will follow its continued occupancy policies for over-income families. SCCHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time of SCCHA's determination that the family has exceeded the over-income limit.

SCCHA Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, SCCHA will notify the family in writing of the determination within 30 days of the date of the determination. The notice will state that SCCHA will terminate the family's tenancy effective six months after the 24-month grace period. The notice will also state that the family may request a hearing if the family disputes SCCHA's determination in accordance with SCCHA policies in Chapter 13.

PART III: TERMINATION BY SCCHA – OTHER AUTHORIZED REASONS

12-III.A. LEASE PROVISIONS

This section addresses provisions for lease termination that will be included in the lease agreement.

Definitions

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

- 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 means violence committed by a person who is or h romantic or intimate nature with the victim
- Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- 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 with the intent to manufacture, sell, distribute, or use the drug.
- 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 approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit.

- 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.
- Stalking is to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.
- 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.

Drug Crime On or Off the Premises

The lease provides that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant’s household or guest, or any such activity engaged in on the premises by any other person under the tenant’s control is grounds for termination.

SCCHA Policy

SCCHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant’s household or guest, and any such activity engaged in on the premises by any other person under the tenant’s control.

SCCHA 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, SCCHA will consider alternatives to termination. Upon consideration of such alternatives and factors, SCCHA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug

The lease will provide that SCCHA may evict a family when SCCHA determines that a household member is illegally using a drug or 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.

SCCHA Policy

SCCHA will terminate the lease when SCCHA determines that a household member is illegally using a drug or SCCHA 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 twelve months.

SCCHA 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. A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, SCCHA will consider alternatives to lease termination. Upon consideration of such alternatives and factors, SCCHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents

The lease will provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including SCCHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

SCCHA Policy

SCCHA 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 SCCHA 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.

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

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

Alcohol Abuse

SCCHA will establish standards that allow for the termination of tenancy if SCCHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

SCCHA Policy

SCCHA will terminate the lease if SCCHA 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 twelve months.

SCCHA 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.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

Other Serious or Repeated Violations of Material Terms of the Lease

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

In making its decision to terminate the lease, SCCHA will consider alternatives as to termination. Upon consideration of such alternatives and factors, SCCHA may, on a case-by-case basis, choose not to terminate the lease.

Other Good Cause

SCCHA may terminate tenancy for other good cause. The Violence against Women Act of 2013 explicitly prohibits SCCHA from considering incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault as “other good cause” for terminating the tenancy or occupancy rights of the victim of such violence.

12-III.B. TERMINATION OF ASSISTANCE BASED ON ASSETS

[24 CFR 5.618, Notice PIH 2023-27]

PHAs have discretion with respect to the application of the asset limitation at annual and interim reexamination. PHAs may adopt a written policy of total non-enforcement, enforcement, or limited enforcement:

1. *Total Non-Enforcement*: PHA will not enforce the asset limitation at annual and interim reexamination, which would mean they will not initiate termination or eviction proceedings for a family for non-compliance with the asset limitation. Under this policy, families will continue to receive assistance.
2. *Enforcement*: PHAs that adopt this policy must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance. They may delay the initiation of termination or eviction proceedings for noncompliant families for up to but no longer than six months.
3. *Limited Enforcement*: PHAs that adopt this policy would enforce the asset limitation at reexamination, but would provide families who are found to be out of compliance up to six months to come back into compliance. If the family does demonstrate they have come back into compliance within that period, the PHA would not initiate termination or eviction proceedings.
 - a. Limited enforcement policies cannot provide families more than six months to come back into compliance and do not extend the period of time the PHA may delay initiation of termination or eviction proceedings; the PHA Owner may still only delay initiation of termination or eviction proceedings for the family for a period of not more than six months. (In the case of a reasonable accommodation, a family may be afforded more than six months to comply.)

PHAs may also establish exceptions to the asset limitation at reexamination. Exception policies may be based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. All exception policies

must comply with civil rights and fair housing statutes and requirements, including but not limited to requirements identified in 24 CFR 5.105(a).

SCCHA Policy

SCCHA will adopt a limited enforcement policy. If a family is found to be out of compliance with the asset limitation (see Section 4-III.C.) at reexamination, SCCHA will provide the family 180 days to come back into compliance.

If the family does not demonstrate to SCCHA that they are back in compliance within the 180 days provided, SCCHA will provide a written 30 days' notice to the family to terminate their tenancy. Families have the right to request reasonable accommodation for additional time to come back into compliance or to delay termination up to but not longer than six months.

Exception policy: SCCHA will not enforce the asset limitation at reexamination for:

- Elderly or disabled families (Head, co-head, or spouse is 62 years or older, or has a disability).
- Families converted to Public Housing assistance due to SCCHA activity such as property acquisition, redevelopment, or program conversion.

12-III.C. ALTERNATIVES TO TERMINATION OF TENANCY

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

In evaluating whether to terminate the lease, the SCCHA will give fair consideration to the seriousness of the activity, and/or likelihood of favorable conduct in the future (including evidence of rehabilitation).

SCCHA Policy

SCCHA 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 SCCHA's request.

Repayment of Family Debts

SCCHA Policy

If a family owes amounts to SCCHA, as a condition of continued occupancy, SCCHA will require the family to repay the full amount.

12-III.D. CRITERIA FOR DECIDING TO TERMINATE TENANCY

Even though SCCHA may have grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and SCCHA may consider all the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, SCCHA will 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.

SCCHA Policy

SCCHA 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 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.

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

SCCHA may consider all circumstances relevant to a particular case to determine whether or not to terminate the lease. Such relevant circumstances can also be considered when terminating the lease for any other reason.

SCCHA Policy

SCCHA will consider the following factors before deciding whether to terminate the lease:

- The seriousness of the offending action, especially with respect to how it would affect other residents
- 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 a victim of domestic violence, dating violence, stalking or sexual assault.
- 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 SCCHA's failure to terminate the tenancy
- The effect of SCCHA's decision on the integrity of the 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, the family's recent history, and the likelihood of favorable conduct in the future
- In the case of program abuse, the dollar amount of the underpaid rent and whether a false certification was signed by the family

Nondiscrimination Limitation

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

12-III.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT

[24 CFR 5.2005]

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2013 (VAWA) provides for residents who are victims of domestic violence, dating violence, stalking, or sexual assault. For general VAWA requirements and SCCHA policies pertaining to notification, documentation, and confidentiality.

VAWA Protections against Termination

VAWA provides four specific protections against termination of assistance for victims of domestic violence, dating violence, sexual assault, or stalking.

First, VAWA provides that SCCHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to SCCHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit.

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives SCCHA the authority to terminate the tenancy of any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of SCCHA to terminate the tenancy of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, or stalking so long as SCCHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)]. Likewise, VAWA does not limit the authority of SCCHA to terminate the tenancy of a victim of domestic violence, dating violence, sexual assault or stalking if SCCHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the tenancy of the victim is not terminated [24 CFR 5.2005(d)(2)].

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)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

SCCHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, SCCHA 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, sexual assault, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- 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 or seeking a legal remedy to prevent the perpetrator from acting on the threat
- If the participant wishes to contest the PHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing. SCCHA Policy

Documentation of Abuse [24 CFR 5.2007]

SCCHA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, SCCHA will request that the individual provide documentation supporting the claim in accordance with the policies. SCCHA 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 SCCHA will document the waiver in the individual's file.

Permissible documentation and submission requirements:

- The certification form XXXX or
- A document:
 - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or mental health professional from whom the victim sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
 - Signed by the applicant or tenant; and

- That specifies, under the penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking
- A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of tenancy for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives SCCHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others” without terminating assistance to “or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant” [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member.

Further, this authority supersedes any local, state, or other federal law to the contrary. However, if SCCHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that SCCHA must follow the same rules when terminating the tenancy to an individual as it would when terminating the tenancy of an entire family.

SCCHA Policy

SCCHA will bifurcate a family’s lease and terminate the tenancy of a family member if SCCHA 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, SCCHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to SCCHA by the victim in accordance with this section.

If SCCHA 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 necessary, SCCHA will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, SCCHA may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

12-IV.A. LEASE TERMINATION NOTICE

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, and the resident’s right to reply to the termination notice.

When SCCHA 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 SCCHA 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.

SCCHA Policy

SCCHA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. All notices of lease termination will include information about the protection against termination provided by the Violence against Women Act of 2013 (VAWA) for victims of domestic violence, dating violence, stalking, or sexual assault (see chapter 12). Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, stalking, or sexual assault of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in this ACOP.

Timing of the Notice

SCCHA must give written notice of lease termination of:

- 3 calendar days in the case of failure to pay rent
- A reasonable period considering the seriousness of the situation (but not to exceed 30 calendar days):
 - If the health or safety of other residents, SCCHA employees, or persons residing in the immediate vicinity of the premises is threatened
 - 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

SCCHA Policy

SCCHA will give written notice of 3 calendar days for nonpayment of rent. If the lease termination is because health or safety of other residents, SCCHA employees, or persons residing in the immediate vicinity of the premises is threatened, or because a member of the household has engaged in any drug-related criminal activity or violent criminal activity, SCCHA will give written notice of 3 calendar days.

For all other lease terminations SCCHA will give 30 days' written notice. The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

12-IV.B. EVICTION

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. SCCHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

SCCHA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, SCCHA 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, SCCHA will seek the assistance of the court to remove the family from the premises as per state and local law.

12-IV.C. RECORD KEEPING

A written record of every termination and/or eviction will be maintained by SCCHA at, 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
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

CHAPTER 13 – GRIEVANCES AND APPEALS

[24 CFR 966 Subpart B]

INTRODUCTION

This chapter describes the policies to be used when applicants or residents disagree with a SCCHA decision. It is the policy of the SCCHA that all applicants and residents have the benefit of all appeal/grievance rights due to them under the law. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Grievance Procedures for Public Housing Residents. This part outlines the requirements and policy for handling grievances for public housing residents.

Note that this chapter is not SCCHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

13-I.A. OVERVIEW

When SCCHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. This part discusses SCCHA policies necessary to respond to applicant appeals through the informal hearing process.

13-I.B. INFORMAL HEARING PROCESS

[24 CFR 960.208(a)]

Informal hearings are provided for housing applicants. An applicant is someone who has applied for admission to the housing program but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project. Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

Notice of Denial [24 CFR 960.208(a)]

SCCHA will give an applicant prompt notice of a decision denying eligibility for tenancy. The notice will contain a brief statement of the reasons for the decision and must also state that the applicant may request an informal hearing to dispute the decision.

When denying eligibility for admission, the SCCHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Reauthorization Act of 2013. The notice and self-certification form must accompany the written

notification of the denial of eligibility determination. Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial.

Scheduling an Informal Hearing

A request for an informal hearing must be made in writing and delivered to SCCHA either in person, by email, fax or by first class mail, by the close of the business day, no later than 10 business days from the date of the SCCHA's notification of denial of admission. SCCHA will schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person. The applicant will be provided an opportunity to present written or oral objections to the decision of SCCHA. The person conducting the informal hearing will make a determination as to uphold or overturn Eligibility.

Informal Hearing Decision

SCCHA will notify the applicant and his/her representative (if any) of SCCHA's final decision, including a brief statement of the reasons for the final decision within 10 business days from the date of the hearing. If the informal hearing decision overturns the denial, processing for admission will resume. If the family fails to appear for their informal hearing, the denial of admission will stand, and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and SCCHA must consider such accommodations. SCCHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

13-II.A. OVERVIEW

SCCHA must offer a grievance procedure prior to filing an eviction action for property damage against a tenant. The SCCHA grievance procedure will be incorporated by reference in the tenant lease.

13-II.B. DEFINITIONS

The following terms are used regarding grievance procedures:

- **Grievance** – a dispute which a tenant may have with respect to an SCCHA action.
- **Complainant** – any tenant whose grievance is presented to SCCH or at the project management office
- **Hearing Officer/Panel** – a person/panel selected in accordance with the grievance Procedure to hear grievances and render a decision with respect thereto

- **Tenant** – the adult person (or persons) (other than a live-in aide)
 - Who resides in the unit, and who executed the lease with SCCHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
 - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

13-II.C. PROCEDURES TO OBTAIN A HEARING

Request for Hearing

Upon receiving a notice of eviction based upon property damage, Complainant may submit a written request for a hearing to SCCHA’s Central Office within seven (7) days after receipt of the notice. The written request shall state that reasonably good cause does not exist for proceeding with the eviction.

Scheduling of Hearings

If the complainant has complied with all requirements for requesting a hearing, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and SCCHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate SCCHA official.

13-II.D. SELECTION OF HEARING OFFICER/PANEL

The grievance hearing must be conducted by an impartial person or persons appointed by SCCHA, other than the person who made or approved the SCCHA action under review, or a subordinate of such person.

SCCHA will designate knowledgeable, professionals that may be SCCHA employees (other than the person who made or approved the decision or a subordinate of the person who made or approved the decision), or other qualified private individuals.

SCCHA must determine the methodology for appointment of the hearing officer and it must be stated in the grievance procedure.

SCCHA will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person has no conflicting relationship with the complainant, that they do not have a personal stake in the matter under dispute and will otherwise not lack impartiality.

13-II.E. PROCEDURES GOVERNING THE HEARING

The complainant will be afforded a fair hearing. This includes:

The opportunity to examine any SCCHA documents before the grievance hearing, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant’s expense. If SCCHA does not make the document available for examination upon request by the complainant, SCCHA may not rely on such document at the grievance hearing.

The tenant will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing. The right to be represented by counsel or another person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

SCCHA Policy

Hearings may be attended by the following applicable persons:

- An SCCHA representative(s) and any witnesses for SCCHA
- The tenant and any witnesses for the tenant
- The tenant's counsel or other representative

The right to a private hearing unless the complainant requests a public hearing.

The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by SCCHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information SCCHA or project management relies.

A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear

If the complainant or SCCHA fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and SCCHA must be notified of the determination by the hearing officer/panel. A determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest SCCHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

SCCHA Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 15 minutes. If the tenant appears within 15 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear.

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the tenant.

Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, SCCHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact SCCHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will

reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

A hearing will only be rescheduled for good cause twice. Should the tenant fail to appear at the scheduled time for the second rescheduled hearing, SCCHA's action will stand.