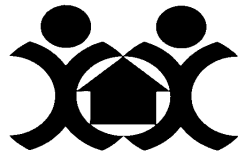


# BOSTON HOUSING AUTHORITY



## ADMISSIONS AND CONTINUED OCCUPANCY POLICY

### FOR THE PUBLIC HOUSING PROGRAMS

January 2019, draft for Approval

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## CHAPTER 1: INTRODUCTION AND POLICY

### 1.1 Introduction

**Boston Housing Authority’s Mission Statement: It is the mission of the Boston Housing Authority (“BHA” or “the Authority”) to provide stable, quality affordable housing for low- and moderate-income persons; to deliver these services with integrity and mutual accountability; and to create living environments which serve as catalysts for the transformation from dependence to economic self-sufficiency.**

This Admissions and Continued Occupancy Policy (ACOP) describes the admission, occupancy and transfer policies by which the BHA determines eligibility for admission, selects prospective residents, assigns apartments, admits residents, and processes transfers, in a fair and nondiscriminatory manner.

This ACOP is applicable to BHA Public Housing Developments only. The BHA’s Hope VI Program developments utilize a separate HUD approved admissions and occupancy system which can be obtained from the property management agent for those developments.

### 1.2 Statement of Nondiscrimination

#### 1.2.1 Compliance with Federal and State Laws

It is the policy of the BHA to comply fully with existing Federal and State laws<sup>1</sup> protecting the individual rights of applicants, residents, or staff and any laws subsequently enacted.

#### 1.2.2 Civil Rights and Fair Housing

The Authority does not discriminate because of race, color, sex, sexual orientation, gender identity, religion, age, handicap, disability, national origin, ethnicity, familial status or marital status, in the leasing, rental, sale or transfer of apartments, buildings, and related facilities, including land that it owns or controls.<sup>2</sup>

<sup>1</sup> Title VI of the Civil Rights Act of 1964 and the implementing regulations at 24 CFR Part 1; Title VIII of the Civil Rights Act of 1968 (as amended by the Fair Housing Amendment Act of 1988); Executive Order 11063 on Equal Opportunity in Housing and the implementing regulations at 24 CFR Part 107; Section 504 of the Rehabilitation Act of 1973 and the implementing regulations at 24 CFR Part 8; the Age Discrimination Act of 1975 and the implementing regulations at 24 CFR Part 146; and the implementing regulations at 24 CFR Parts 100,108,110, and 121. Title II of the Americans with Disabilities Act and the implementing regulations at 28 CFR Part 35 and M.G.L. Chapter 151B. For BHA’s state-aided housing, applicable regulations are found at 760 CMR 4.00, 5.00 and 6.00 covering housing developed under the Chapter 200, Chapter 667 and Chapter 705 programs.

<sup>2</sup> Buildings must be owned by the Authority and covered by a contract for annual contributions under the United States Housing Act of 1937 for properties in the Federal program, and/or a Massachusetts Department of

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The BHA shall not, on account of race, color, sex, religion, age, sexual orientation, gender identity, disability, handicap, national origin, ethnicity, marital status or familial status:<sup>3</sup>

1. Deny to any Household the opportunity to apply for housing, or deny to any qualified Applicant the opportunity to lease housing suitable to his/her needs;
2. Provide housing which is different from that provided others except as required or permitted by law and in accordance with this Policy;
3. Subject any person to segregation or disparate treatment;
4. Restrict a person's access to any benefit enjoyed by others in connection with the housing program;
5. Treat a person differently in determining eligibility or other requirements for admission;
6. Deny a person access to the same level of services available to other similarly situated individuals; or
7. Deny a person the opportunity to participate in a planning or advisory group that is an integral part of the housing program.

### 1.2.3 Fair Admissions

The BHA shall not automatically deny admission to a particular group or category of otherwise eligible Applicants (e.g., Households with children born to unmarried parents or Households whose Head of Household or Co-Head of Household is a student).

Each Applicant in a particular group or category must be treated on an individual basis in the normal processing routine.

### 1.2.4 Reasonable Accommodations

The BHA shall make reasonable accommodations in policies and procedures and, if necessary and reasonable, make certain structural modifications for persons with disabilities (Applicants or residents) in accordance with the BHA's **Reasonable Accommodation in Housing Policy**.

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Housing and Community Development Contract for Financial Assistance or operating funds for properties in the State program.

<sup>3</sup> See M.G.L. Chapter. 151B, § 4 and 42 U.S.C. § 3601

- The BHA cannot refuse to make a Reasonable Accommodation in rules, policies, practices or services when such accommodation may be necessary to afford a person with a physical or mental impairment equal opportunity to use and enjoy a BHA apartment, including public and common use areas.
- The BHA must make a modification to existing premises, when requested by a Disabled person, if the modification is reasonable and necessary to afford equal opportunity to use and enjoy BHA premises.
- An accommodation or structural modification is not reasonable if it would impose an undue administrative and financial burden on the BHA, or fundamentally alter the nature of the public housing program. The burden of demonstrating that a requested accommodation is unreasonable and imposes an undue administrative and financial burden, or fundamentally alters the nature of the public housing program is on the BHA. If granting the requested accommodation would create an undue administrative and financial burden, the BHA shall approve the request to the extent that it can do so without undergoing the undue burden or fundamental program alteration as described above.

Requests for accommodation with respect to documents used by the BHA should be made to the Authority's TDD phone number, TTY phone number, Civil Rights Department, Occupancy Department, Development Manager's Office, or the Housing Service Center. In addition, although there are many different staff members who may review a request for reasonable accommodation, the BHA has a Reasonable Accommodation Coordinator who may be contacted for assistance. The Reasonable Accommodation Coordinator can be reached in the BHA's Office of Civil Rights. The BHA Reasonable Accommodation in Public Housing Policy may also be consulted.

#### **1.2.5 Records of Applications for Admission and Transfer**

BHA records with respect to applications for admission and transfer shall indicate the following for each application:

1. Date and time of receipt;
2. The Applicant's choice(s) of development(s).
3. The determination of the BHA as to eligibility or non-eligibility of the applicant or resident;
4. Where eligible, the apartment size for which eligible.

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5. Where eligible the Priority and/or Preference category granted, if any and the date such eligibility is granted.
6. Race of Household Members (for statistical purposes only)
7. Status as a Disabled Household or Household Member (See Section 5.3.2.G)
8. Name(s) of Household Member(s)
9. Address of Household including mailing address
10. Client number.

#### **1.2.6 Records of Apartments Offered**

The BHA will maintain a record of apartments offered and to whom offered, including the date, location, apartment identification, client number, circumstances of each offer, each acceptance or rejection, and the reason for any rejection.

#### **1.2.7 Applicant/Transfer Applicant Appeal Procedure**

An Applicant or resident who believes himself/herself to have been aggrieved by any action, inaction or decision of the BHA in the processing of his/her application for admission or transfer application shall have the right to a hearing. Applicants for admission are entitled to an appeal before a hearing officer pursuant to the provisions of this Policy (see Section 4.1.4) and transfer applicants are entitled to a hearing pursuant to BHA's Tenant Grievance Procedures.

### **1.3 Accessibility and Plain Language**

#### **1.3.1 Accessible Facilities and Programs**

Facilities and programs used by Applicants and residents shall be made accessible. Application and management offices, hearing rooms, community centers, laundry facilities, craft and game rooms and other public spaces will be available for use by residents with disabilities. If these facilities are not already accessible (and located on accessible routes), they will be made accessible so long as this does not impose an undue financial and administrative burden on the Authority.

#### **1.3.2 Plain Language Paperwork**

Documents intended for use by Applicants and residents will be presented in accessible formats for those with vision or hearing

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impairments and they will be written simply and clearly to enable Applicants and residents with learning or cognitive disabilities to understand as much as possible. Requests for accommodation with respect to documents used by the BHA should be made to the Authority's TDD phone number, TTY phone number, Civil Rights Department, Occupancy Department, or the Housing Service Center.

### **1.3.3 Forms of Communication other than Plain Language Paperwork**

At the point of initial contact BHA staff shall ask all Applicants whether they need some form of communication other than plain language paperwork. Some alternatives might include: sign language interpretation, having materials explained orally by staff, either in person or by phone, large type materials, information on tape, and having someone (friend, relative or advocate) accompany the Applicant to receive, interpret and explain housing materials. The BHA will pay for sign language interpreters for the hearing impaired.

### **1.3.4 English Language Ability**

Some Applicants will not be able to read (or to read English), so staff must be prepared to read and explain documents that they would normally hand to an Applicant to be read or filled out. Applicants who read or understand little English may need to be provided with an interpreter who can explain what is occurring. The BHA will make an effort to have its written materials translated into those languages frequently spoken by Applicants and to provide oral interpretation, upon request, in accordance with its Limited English Proficiency Policy (LEP).

## **1.4 Broad Range of Incomes (Income Mixing) and Deconcentration (Family Developments Only)**

In accordance with the Congressional mandate in the Quality Housing and Work Responsibility Act of 1998 and with the approval of the Commonwealth of Massachusetts' Department of Housing and Community Development (DHCD), the Boston Housing Authority has adopted the federally required policies to provide for deconcentration of poverty and to encourage income mixing in all Family (general occupancy) developments. BHA offers the plan below to facilitate both deconcentration and income mixing in BHA developments. The goals of the plan are to provide a sufficient mixture of extremely low-income, very-low, and low-income Households at all BHA developments, and to avoid circumstances wherein higher-income or lower-income developments are created with respect to the Authority-wide average income.

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### 1.4.1 Definitions

For the purposes of this Admissions and Continued Occupancy Policy (ACOP), Lower-Income Households are defined as Households whose annual income does not exceed eighty (80) percent of the Boston area median income (AMI), with adjustments for smaller and larger Households, as determined by the Secretary of Housing and Urban Development. In accordance with 24 CFR 5.603, HUD may establish income ceilings higher or lower than 80% of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low household incomes. However, with regard to state developments, state income rules of eligibility as defined in 760 CMR 5.00 or any successor regulations will apply. Within this category of Lower-Income Households, the following definitions apply:

1. **Low-Income Household**

A Low-Income Household is defined as a Household whose annual income exceeds fifty (50) percent but *does not* exceed eighty (80) percent of the Boston AMI, with adjustments for smaller and larger Households, as determined by the Secretary of Housing and Urban Development or Massachusetts Department of Housing and Community Development.

2. **Very Low-Income Household**

A Very Low-Income Household is defined as a Household whose annual income exceeds thirty (30) percent of the Boston AMI but *does not* exceed fifty (50) percent of the AMI for the area with adjustments for smaller and larger Households, as determined by the Secretary of Housing and Urban Development or Massachusetts Department of Housing and Community Development.

3. **Extremely Low-Income Household**

An Extremely Low-Income Household is defined as a Household whose annual income does not exceed the higher of the federal poverty level or thirty (30) percent of the AMI for the Boston area, with adjustments for smaller and larger Households, as determined by the Secretary of Housing and Urban Development or Massachusetts Department of Housing and Community Development.

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#### 1.4.2 Broad Range of Incomes (Income-Mixing)

It is the goal of BHA to attain, within a reasonable period of time, a resident population in each development composed of Lower-Income Households with a broad range of incomes. BHA will make an effort to assure that each of its developments will include Households with a broad range of incomes generally representative of the range of Lower-Income Households in the City of Boston.

To achieve and maintain the basic objective of housing Households with a broad range of incomes, BHA will review its waiting list to determine whether there is a representative income mix of Low, Very-Low, and Extremely-Low Income Households. If there is not a representative income mix, BHA will consider strategies to encourage a greater income mix including, but not limited to, conducting targeted outreach efforts and/or establishing income Preferences.

Regardless of any discretionary strategies the BHA may adopt to achieve the goal of income mixing, the BHA will ensure that it meets the following targeting requirements as set forth by federal regulation:

- In federal developments only, at least 40% of new admissions to the BHA's public housing program during each fiscal year will be Extremely-Low Income Households. (See Section 5.1.4 for additional Income Qualification criteria).
- BHA may reduce the required percentage of public housing apartments to which Extremely-Low Income Households must be admitted to the extent that the BHA has credits, in the same fiscal year, for admissions of Extremely-Low Income Households to its Section 8 tenant-based assistance program beyond the number required for that program. However, the BHA may not have more credits than the lesser of the following:
  - Ten percent of the total number of Households admitted to the Section 8 tenant-based assistance program during the fiscal year; **OR**
  - The number of the BHA's public housing apartments in developments located in census tracts with a poverty rate of 30 percent or more that are made available and filled by eligible Households who are not Extremely-Low income Households.

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- During any fiscal year and regardless of the number of credits from Section 8 tenant-based assistance admissions, at least 30 percent of BHA admissions to public housing apartments will be Extremely–Low income Households.

### 1.4.3 Deconcentration

The admissions policies contained in this ACOP are designed to deconcentrate poverty. This objective will be achieved by bringing higher-income Households into lower-income developments and/or lower-income Households into higher-income developments. While information regarding specifics of each development is contained each year in the BHA’s Annual Plan, which is submitted to HUD and DHCD, below is an outline of BHA’s deconcentration policy.

The BHA will accomplish the deconcentration goal in a uniform and non-discriminatory manner. While targeting certain levels of income for admission to BHA public housing, BHA will not intentionally concentrate lower-income Households, as defined below, in one public housing development or building within a development.

#### 1. Deconcentration – Identification Procedures

Annually, the BHA will calculate the average income at all BHA Family developments (“the Authority-wide average income”). The Authority will also calculate the average income of all Households at each Development separately (“the Development average income”). Developments in which the Development average income is *above* 115% of the Authority-wide average income will be considered “higher-income” developments. Likewise, Developments in which the Development average income is *below* 85% of the Authority-wide average income will be considered “lower-income” Developments.

- Definitions
  - The Authority-wide average income: The average income of all Households residing in BHA Family developments. Such an average is used as a base measure from which Developments are either determined to be “higher-income” or “lower-income” for purposes of the BHA’s deconcentration policy.

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- The Development average income: The average income of all Households residing in a single BHA Family Housing development.
- Higher-income Development: A development in which the Development average income is above 115% of the Authority-wide average income.
- Lower-income Development: A development in which the Development average income is below 85% of the Authority-wide average income.

## 2. Remedial Action

Based upon the above-mentioned analysis, the BHA will review the need to offer incentives to eligible families that would help accomplish the deconcentration objectives at individual developments.

Should the average income at a development(s) vary more than 15% from the Authority-wide average, the BHA may utilize some or all of the policies and/or incentives listed below:

- Establish an income Preference in order to reach Applicant Households with lower or higher incomes as appropriate.
- Initiate affirmative marketing strategies to all eligible income groups.
- Provide additional applicant consultation and information.
- Provide additional supportive services and amenities.
- Provide rent incentives authorized by Quality Housing and Work Responsibility Act of 1998 (“QHWRA”).
- Targeting investment and capital improvements towards a development(s) below 85% of the Authority-wide average income.

### 1.4.4 Monitoring

As part of the BHA’s Annual Plan submission to HUD and as part of an annual report to DHCD, the BHA will annually monitor the income levels of Households residing in BHA housing and on the waiting list to assess its progress in attaining the deconcentration and income mixing goals.

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The BHA will calculate and compare the average Household incomes at each development with the Authority-wide average, as described above. In addition, the income status of Applicants on the BHA's waiting list will be analyzed to determine the percentage of Applicants with "Low," "Very Low" and "Extremely Low" incomes.

The BHA will also ascertain its progress in meeting the income-targeting goal that requires in federal developments that 40% of new admissions must be Extremely-Low Income Households. If the monitored data indicates any problems, BHA will alter its marketing and deconcentration strategies in accordance with this policy and federal and State requirements.

### 1.5 Civil Rights Protection Plan

It is the policy and obligation of the Boston Housing Authority to administer all aspects of its housing programs without regard to race, color, age, sex, sexual orientation, gender identity, national origin, ethnicity, religion, familial or marital status or handicap/disability. The BHA's **Civil Rights Protection Plan** ("CRPP") approved by the U.S. Department of Justice on July 26, 1999, is designed to protect Applicants, residents and their visitors from threats, harassment, violence or abuse while they are on BHA property. (Please refer to the BHA's CRPP for specific policies and procedures).

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## CHAPTER 2: MARKETING AND OUTREACH

### 2.1 Marketing Policy

It is the policy of the BHA to conduct marketing and outreach as needed to maintain an adequate application pool representative of the eligible population in the area. In marketing its developments, it is the policy of the BHA to comply fully with existing Federal and State laws protecting the individual rights of applicants, residents, or staff and any laws subsequently enacted. (See Section 1.2 Statement of Nondiscrimination including all subsections.)

2.1.1 Marketing has two primary purposes:

1. to make all potential applicants aware of the housing and related services that BHA offers its residents; and
2. to attract specific groups of applicants, such as,
  - ◆ those with Low- and Very low-income levels, as defined in Chapter 1, section 1.4.1 "Definitions," of this policy,
  - ◆ Disabled Persons who require units with accessible features, or
  - ◆ those determined by an annual analysis of site-based waiting lists to be the least likely to apply for the housing market area.

### 2.2 Marketing Requirements

The following requirements apply to BHA marketing efforts:

#### 2.2.1 Fair Housing

Materials must comply with the Fair Housing Act requirements with respect to wording, logo, size of type etc.

#### 2.2.2 Accurate Descriptions

Materials shall accurately describe each development, its apartments by size and type, its application process, waiting list, estimated wait time, amenities and Priority and Preference structure and shall include the availability of apartments with accessible features, and any designation that applies to the property.

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### 2.2.3 Plain Language

Marketing materials shall be in “plain language”. The BHA shall make an effort to use print media, videos and multi-media in a variety of languages.

### 2.2.4 Eligibility

Marketing materials shall make clear to individuals and Households, who is eligible for housing including people with physical and/or mental disabilities.

### 2.2.5 Reasonable Accommodations and Structural Modifications

BHA’s marketing materials will include notice of the Authority’s responsibility to provide reasonable accommodations and structural modifications for people with disabilities if reasonably required on account of disability.

## 2.3 Marketing and Outreach Strategies

### 2.3.1 When BHA Will Market Apartments

The BHA will undertake marketing efforts whenever there is a need to do so in order to address: changes required as a result of legislative or regulatory requirements; fair housing needs; apartment vacancy or turnover considerations; deconcentration and income mixing needs; an insufficient pool of Applicants on the waiting list; or any other factor which may require marketing efforts to further public housing program goals. The BHA shall assess these factors at least annually as part of its Agency Plan in order to determine the need and scope of the marketing effort.

### 2.3.2 Affirmative Marketing

2.3.2.1 The BHA shall undertake appropriate affirmative fair marketing efforts whenever the Authority identifies a need to augment the number of applicants on any of its site-based waiting lists. (See Section 2.1.1.2 and Section 3.2) <sup>4</sup>**Outreach**

#### 1. Print Media

The BHA will establish a listing of publications in which marketing will be done through the use of print media. As necessary, the BHA will utilize any or all of these publications to facilitate outreach to those groups identified under Section 2.1.1.2.

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A listing of publications serving BHA's housing market area is:

<b>Newspaper</b>	<b>Street</b>	<b>Town</b>	<b>Zip</b>
Allston-Brighton TAB	PO Box 9113	Needham	02492
Back Bay Courant	294 Washington St., Suite 429	Boston	02108
Banker and Tradesman	280 Summer Street	Boston	02210
Bay State Banner	68 Fargo Street, 8th Fl	Boston	02210
Bay Windows	631 Tremont Street	Boston	02118
Beacon Hill Times	25 Myrtle Street	Boston	02114
Boston Business Journal	200 High Street	Boston	02110
Boston City Paper	492 E. Broadway	South Boston	02127
Boston Haitian Reporter	150 Mt. Vernon St., Suite 120	Dorchester	02125
Boston Irish Reporter	150 Mt. Vernon St., Suite 120	Dorchester	02125
Boston Seaport Journal/Travel N.E.	256 Marginal Street	East Boston	02128
Boston TAB	PO Box 9113	Needham	02492
Carriage News (Taxi News)	PO Box 326	South Boston	02127
Charlestown Patriot	1 Thompson Square	Charlestown	02129
Dorchester Argus Citizen	PO Box 6	South Boston	02127
Dorchester Community News	1454 Dorchester Ave.	Dorchester	02122
Dorchester Reporter	150 Mt. Vernon St., Suite 120	Dorchester	02125

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East Boston Sun Journal Transcript	PO Box 9103	Revere	02151
East Boston Times	40 William Kelly Square	East Boston	02128
El Mundo	408 South Huntington Avenue	Boston	02130
El Universal	1736 Washington Street	Boston	02118
Fenway News	PO Box 230307 Astor Station	Boston	02123
Hyde Park Bulletin	11 Fairmont Avenue	Hyde Park	02136
Hyde Park Tribune/JP Citizen	1261 Hyde Park Ave	Hyde Park	02136
In Newsweekly	450 Harrison Ave	Boston	02116
Independent Newspapers	385 Broadway, Suite 105	Revere	02151
Jamaica Plain Gazette/MHGazette	PO Box 1139, 7 Harris Ave	Jamaica Plain	02130
Jewish Advocate	15 School Street	Boston	02108
La Semana	911 Massachusetts Ave.	Boston	02118
Metro Newspaper	354 Congress Street	Boston	02210
Parents Paper	670 Center Street	Jamaica Plain	02130
Parkway/W. Roxbury Transcript	PO Box 9113	Needham	02492
People's Voice	PO Box 940, 554 Washington	Dorchester	02124
Post Gazette (North End)	PO Box 130135, 5	Boston	02113

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	Prince St		
Regional Review (North End)	PO Box 1187	Saugus	01906
Sampan	200 Tremont Street	Boston	02116
Sing Tao	130 Lincoln St	Boston	02111
South Boston Online	490 Broadway	South Boston	02127
South Boston Tribune	PO Box 6	South Boston	02127
South End News	631 Tremont Street	Boston	02118
Spare Change	1151 Massachusetts Avenue	Cambridge	02138
Wade Publications, LTD	PO Box 400811	N. Cambridge	02140
West Roxbury Bulletin	1842 Center Street	West Roxbury	02132
West Roxbury Transcript	PO Box 9113	Needham	02492
World Journal	75 Kneeland Street	Boston	02111

### 3. Social Service Agencies/Community Organizations

The BHA will maintain a listing of Social Service Agencies and Community Organizations that serve households in the BHA's market area. The BHA shall utilize this listing as necessary to facilitate outreach to groups as identified in Section 2.1.1.2.

In addition, a specific effort shall be made to provide marketing materials to all agencies, including MASS ACCESS, that serve and advocate for potentially eligible applicants (e.g. the disabled/ handicapped) in order that accessible/adaptable apartments are brought to the attention of people who can best take advantage of these apartments' accessible or adaptable features. (See Section 6.3 Occupancy of Accessible Apartments and Apartments with Adapted Features)

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A listing of Social Service Agencies/Community Organizations serving households in BHA's housing market area is:

Company	Address	City	State	ZipCode
About Hospital	49 Robinwood Avenue	Jamaica Plain	MA	02130
Action for Boston Community Development	178 Tremont Street	Boston	MA	02111
Action for Boston Community Development, Inc.	178 Tremont Street	Boston	MA	02111
AIDS Action Committee of Massachusetts	131 Clarendon Street	Boston	MA	02116
AIDS Housing Corporation	29 Stanhope Street	Boston	MA	02116
Alianza Hispana	413 Dudley Street	Roxbury	MA	02119
American Association of Retired Persons	1 Boston Place	Boston	MA	02108
Bentley College	175 Forest Street	Waltham	MA	02154
Beth Israel/Deaconess Medical Center	330 Brookline Avenue	Boston	MA	02215
Bethel Tabernacle Pentecostal Church	10 St. George Street	Roxbury	MA	02118
Blue Cross Blue Shield of Massachusetts, Inc.	401 Park Drive	Boston	MA	02215-2909
Boston Addiction Services	723 Massachusetts Avenue	Boston	MA	02114
Boston Aging Concerns	67 Newbury Street	Boston	MA	02116
Boston Center for Independent Living	95 Berkeley Street	Boston	MA	02116
Boston College	38 Commonwealth Avenue	Chestnut Hill	MA	01760
Boston College Law School	855 Centre Street	Newton	MA	02159
Boston Community Services	780 American Legion Highway	Roslindale	MA	02131
Boston Digital Bridge Foundation	1 City Hall Plaza	Boston	MA	02201
Boston Senior Home Care	100 Chauncy Street	Boston	MA	02111
Boston Teachers Union		Dorchester	MA	02125
Boston University	19 Deerfield Street	Boston	MA	02215
Boston Worker's Assistant Center	33 Harrison Avenue	Boston	MA	02111
Bowdoin Street Community Health Center	230 Bowdoin Street	Dorchester	MA	02122
Brandeis University	P.O.Box 9110 Mail Stop U4	Waltham	MA	02254
Brigham & Women's Hospital	72 Francis Street	Boston	MA	02215
Brookside Community Health Center	3297 Washington Street	Jamaica Plain	MA	02130
Cambridge College	1000 Massachusetts Avenue	Cambridge	MA	02138
Cambridge Housing Authority	270 Green Street	Cambridge	MA	02139
Cardinal Cushing Center for the Spanish	76 Union Park Street	Roxbury	MA	02118
Cardinal Medeiros Center for the Homeless	140 Shawmut Avenue	Roxbury	MA	02118
Carney-Caritas Hospital	2100 Dorchester Avenue	Dorchester	MA	02124
Casa Myrna Vazquez	P.O. Box 180019	Roxbury	MA	02118
Cathedral LTPC	617 Harrison Avenue	Roxbury	MA	02118
Catholic Charities of Boston	49 Franklin Street	Boston	MA	02110
Center for Public Representation	246 Walnut Street	Newton	MA	02460
Central Boston Elder Services	812 Huntington Avenue	Boston	MA	02115
CHAPA	18 Tremont Street	Boston	MA	02108
Charlestown Health Care Center	73 High Street	Charlestown	MA	02129

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Church Park	221 Massachusetts Avenue	Boston	MA 02115
City of Boston, Commission for Persons with Disabilities	1 City Hall Plaza	Boston	MA 02201
City of Boston, Emergency Shelter Commission	1 City Hall Plaza	Boston	MA 02201
City of Boston, Fair Housing Commission	1 City Hall Plaza	Boston	MA 02201
City of Boston, Office of Civil Rights	1 City Hall Plaza	Boston	MA 02201
City of Boston, Office of Personnel Management	1 City Hall Plaza	Boston	MA 02210
Clark University	950 Main Street	Worcester	MA 01610
Codman Square Community Health Center	637 Washington Street	Dorchester	MA 02124
Committee for Boston Public Housing, Inc	100 Terrace Street	Roxbury	MA 02120
Community Work Service	174 Portland Street	Boston	MA 02114
Council of Elders	2055 Columbus Avenue	Roxbury	MA 02119
Council of Large Public Housing Authorities	1250 Eye Street NW	Washington	DC 20001
Covenant Congregational Church	455 Arborway	Jamaica Plain	MA 02130
Dana Farber Cancer Institute	44 Binney Street	Boston	MA 02215
Dimock Community Health Center	55 Dimock Street	Roxbury	MA 02119
Disability Law Center	11 Beacon Street	Boston	MA 02108
Disabled American Veterans	JFK Federal Bldg.	Boston	MA 02203
Dorchester House Multi-Service Center	1353 Dorchester Avenue	Dorchester	MA 02122
Dudley Street Neighborhood Initiative	513 Dudley Street	Roxbury	MA 02119
E.R.I	432 Columbia Street	Cambridge	MA 02141
Ebenezer Baptist Church	157 West Springfield Street	Roxbury	MA 02118
Ecumenical Social Action Commission, Inc.	3134 Washington Street	Jamaica Plain	MA 02130
Egleston Square Neighborhood Association	3134 Washington Street	Roxbury	MA 02119
Episcopal Diocese of Massachusetts	138 Tremont Street	Boston	MA 02111
ETHOS	555 Amory Street	Jamaica Plain	MA 02130
Fairmount LTPC	43 Bow Street	Hyde Park	MA 02136
Families in Transition	316 Huntington Avenue	Boston	MA 02115
Family Services of Greater Boston	31 Heath Street	Jamaica Plain	MA 02130
Father Bill's Place	38 Broad Street	Quincy	MA 02169
Faulkner Hospital	1153 Centre Street	Jamaica Plain	MA 02130
Fenway Community Health Center	7 Haviland Street	Boston	MA 02115
Franciscan Children's Hospital	30 Warren Street	Brighton	MA 02135
Golden Age Center	382 Main Street	Charlestown	MA 02129
Greater Boston Elderly Legal Services	197 Friend Street	Boston	MA 02114
Greater Boston Housing Initiatives	105 Chauncy Street	Boston	MA 02111
Greater Boston Legal Services	197 Friend Street	Boston	MA 02114
Greater Boston Legal Services	197 Friend Street	Boston	MA 02114
Greater Boston Rehabilitation Service	31 Msgr. O'Brien Hwy	Cambridge	MA 02141
Haitian Multi-Service Center	12 Bicknell Street	Dorchester	MA 02121
Harborlight/Salvation Army	407 Shawmut Avenue	Roxbury	MA 02118
Harvard Pilgrim Healthcare	126 Brookline Avenue	Hyde Park	MA 02136
Harvard University	54 Dunster Street	Cambridge	MA 02138

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HomeStart	105 Chauncy Street	Boston	MA 02111
Housing Opportunity Unlimited	320 Mount Vernon Street	Dorchester	MA 02125
International Institute of Boston	287 Commonwealth Avenue	Boston	MA 02115
International Union of Operating Engineers	120 Mount Hope Street	Roslindale	MA 02131
Jewish Vocational Services	105 Chauncy Street	Boston	MA 02111
Jewish Vocational Services	26 West Street	Boston	MA 02111
Jobs for Youth-Boston, Inc.	125 Tremont Street	Boston	MA 02108
JP Neighborhood Development Corporation	31 Germania Street	Jamaica Plain	MA 02130
Justice Resource Institute	270 Huntington Avenue	Boston	MA 02115
Kingston House Mission	39 Kingston Street	Boston	MA 02111
Kit Clark Senior Services	1500 Dorchester Avenue	Dorchester	MA 02122
Laborers Union Local	265 East 9th Street	South Boston	MA 02127
Lemuel Shattuck Shelter	170 Morton Street	Jamaica Plain	MA 02130
Lesley College	29 Everett Street	Cambridge	MA 02139
Manhattan Agency	152 Howard Avenue	Dorchester	MA 02125
Masjid Al Quran	35 Intervale Street	Dorchester	MA 02121
Mass. Advocacy Center	100 Boylston Street	Boston	MA 02116
Mass. Association for the Blind	200 Ivy Street	Brookline	MA 02146
Mass. Association of Older Americans	110 Arlington Street	Boston	MA 02115
Mass. Association of Retarded Citizens	217 South Street	Waltham	MA 02154
Mass. Behavioral Health Partnership	150 Federal Street	Boston	MA 02110
Mass. Commission for the Blind	48 Boylston Street	Boston	MA 02116
Mass. Commission for the Deaf & Hard of Hearing	150 Mount Vernon Street	Dorchester	MA 02125
Mass. Department of Employment and Training	19 Staniford Street	Boston	MA 02114
Mass. Department of Mental Health	25 Staniford Street	Boston	MA 02114
Mass. Department of Mental Health	85 E Newton Street	Roxbury	MA 02118
Mass. Department of Mental Retardation	160 North Washington St.	Boston	MA 02114
Mass. Department of Social Services	24 Farnsworth Street	Boston	MA 02110
Mass. Housing & Shelter Alliance	5 Park Street	Boston	MA 02108
Mass. Immigrant & Refugee Advocates	105 Chauncy Street	Boston	MA 02111
Mass. Job Training, Inc.	90 Washington Street	Dorchester	MA 02121
Mass. Job Training, Inc.	1 Orr Square	Revere	MA 02151
Mass. Job Training, Inc.	600 Washington Street	Dorchester	MA 02122
Mass. League of Community Health Centers	100 Boylston Street	Boston	MA 02116
Mass. Senior Action Council, Inc.	565 Warren Street	Dorchester	MA 02121
Massachusetts General Hospital	55 Fruit Street	Boston	MA 02114
Massachusetts House of Representatives	State House	Boston	MA 02133
Massachusetts Institute of Technology	70 Memorial Drive	Cambridge	MA 02142
Mattapan Community Health Center	1425 Blue Hill Avenue	Mattapan	MA 02126
Maximus	30 Winter Street	Boston	MA 02108
Metro North Worker's Assistance Center	196 Boston Avenue	Medford	MA 02155
Metropolitan Boston Housing Partnership	125 Lincoln Street	Boston	MA 02111-2503
Mission Hill Extension LTPC	2609 Ruggles Street	Roxbury	MA 02120
NAACP of Greater Boston	330 Dr. Martin Luther King, Jr. Blvd.	Roxbury	MA 02119

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NAHRO	630 Eye Street NW	Washington	DC	20001
National Association of Letter Carriers	626 Dorchester Avenue	South Boston	MA	02127
New England Baptist Hospital	125 Parker Hill Avenue	Roxbury	MA	02120
New England Council of Carpenters	803 Summer Street	South Boston	MA	02127
New England Rehabilitation Center	1269 Beacon Street	Brookline	MA	02146
New England School of Law	154 Stuart Street	Boston	MA	02116
NOAAH c/o KMX Parners	2300 M Street NW	Washington	DC	20037
Northeastern University	400 Huntington Avenue	Boston	MA	02115
One With One	PO Box 35404	Brighton	MA	02135
Orchard Park LTPC	1154 Harrison Avenue, #137	Roxbury	MA	02119
Partners HealthCare System, Inc.	800 Boylston Street, Ste. 1150	Boston	MA	02199-8001
People's Baptist Church	134 Camden Street	Roxbury	MA	02118
Pine Street Inn	444 Harrison Avenue	Roxbury	MA	02118
Pleasant Hill Baptist Church	155 Humboldt Avenue	Dorchester	MA	02121
Project Free	93 Ames Street	Dorchester	MA	02124
Riverside Cambridge Community Center	217 Western Avenue	Cambridge	MA	02139
Rosie's Place	889 Harrison Avenue	Roxbury	MA	02118
Roxbury Multi-Service Center	317 Blue Hill Avenue	Dorchester	MA	02121
RoxComp	435 Warren Street	Roxbury	MA	02119
RoxComp/Orchard Park Health Center	116 Eustis Street	Roxbury	MA	02119
Russian Community Association of MA	215B Harvard Avenue	Boston	MA	02134
S.D.I.	50 Otis Hill Road	Norwell	MA	02061
S.T.R.I.V.E.	533 Washington Street	Dorchester	MA	02121
Saint Mark's Congregational Church	200 Townsend Street	Dorchester	MA	02121
Salvation Army Family Shelter	23 Vernon Street	Roxbury	MA	02119
Simmons College	300 The Fenway	Boston	MA	02115
Sojourner House	85 Rockland Street	Roxbury	MA	02119
Somerville Housing Authority	30 Memorial Road	Somerville	MA	02145
South Cove Community Health Center	145 South Street	Boston	MA	02111
Spaulding Rehabilitation Hospital	125 Nashua Street	Boston	MA	02114
St. Elizabeth's Medical Center	736 Cambridge Street	Brighton	MA	02135
St. Francis House	39 Boylston Street	Boston	MA	02116
Suffolk University	20 Ashburton Place	Boston	MA	02108
Suffolk University Law School	41 Temple Street	Boston	MA	02114
Teamster's Local 122	765 East Third Street	South Boston	MA	02127
Ten Point Coalition	215 Forest Hills Avenue	Jamaica Plain	MA	02130
The Laboure Center	275 West Broadway	South Boston	MA	02127
Travelers Aid Society of Boston	711 Atlantic Avenue	Boston	MA	02111
Tufts New England Medcal Center	750 Washington Street	Boston	MA	02110
Tufts New England Medical Center	750 Washington Street	Boston	MA	02111
Twelfth Baptist Church	160 Warren Street	Roxbury	MA	02119
United Food & Commerical Workers	725 South Street	Roslindale	MA	02131
Uphams Corner Community Health Center	415 Columbia Road	Dorchester	MA	02125
Urban Edge Housing Corporation	PO Box 1209	Jamaica Plain	MA	02130
Urban League of Eastern Massachusetts	88 Warren Street	Roxbury	MA	02119
VA Medical Center	150 S. Huntington Avenue	Jamaica Plain	MA	02130

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Veterans Administration Outpatient Clinic	251 Causeway Street	Boston	MA 02114
Visiting Nurse Association of Boston	320 Washington Street	Brighton	MA 02135
Wheelock College	45 Pilgrim Road	Boston	MA 02115

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## CHAPTER 3: PRELIMINARY APPLICATIONS AND PROCESSING

### 3.1 Application Forms

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

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### 3.2 Development Choice(s)

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

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

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

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

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

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- c) Approved Special Circumstances Transfers shall be offered every other 4th available unit by waiting list by bedroom size and appropriate unit type.

### **3.2.1 Monitoring**

As part of the Annual Plan submission to HUD and as part of a semi-annual report to DHCD, the BHA will monitor the racial, ethnic, and disability-related composition of Households residing at each BHA development and on each development waiting list. The purpose of this monitoring will be to assess changes in racial, ethnic, or disability-related Household composition at each BHA development that may have occurred during the implementation of the site-based waiting list.

In addition, at least every three years the BHA shall contract with an independent agency specializing in fair housing, to employ independent testers or other means satisfactory to HUD and DHCD, to assure that its site-based waiting lists are not being implemented in a discriminatory manner, and that no patterns or practices of discrimination exist. The BHA shall provide the results of this review to HUD and DHCD and shall take steps to remedy any problems found during the review including steps necessary to affirmatively further fair housing.

### **3.2.2 Remedial Action**

Based upon the above-mentioned monitoring, the BHA will review the need to take steps to remedy any problems that surfaced during the review. These steps may include some or all of the following:

- ◆ Initiate affirmative marketing strategies
- ◆ Provide additional applicant consultation and information
- ◆ Provide additional supportive services and amenities
- ◆ Target investment and capital improvements towards a development
- ◆ Modify marketing efforts in response to assessment of occupancy patterns and the composition of the waiting lists.

## **3.3 Processing Applications for Admission**

### **3.3.1 Processing**

It is the BHA's policy to accept and process applications in accordance with applicable BHA, Federal and State regulations and handbooks.

### **3.3.2 Assignment of Application Control Number**

All applications shall be assigned a chronological application control number and shall be dated and time stamped when they are completed at a BHA application-taking location. All Applicants shall be given a

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date and time stamped receipt that informs Applicants of their responsibility to notify the BHA of any change of address or Household composition and to respond to application update requests sent to them.

### **3.3.3 Communications**

#### **1. BHA to Applicants**

All communications with Applicants will be by first class mail, except when an Applicant who is a Disabled Person requests some other form of communication (for example, a telephone call, communication with a designated third party, etc.). Failure to respond to BHA communications may result in withdrawal of an Applicant from all waiting lists.

#### **2. Applicants to BHA**

It is the responsibility of each Applicant to inform the BHA in writing of any change in address, telephone number, Household composition, change in Priority, Good Cause, or other information, which may affect the status of the application while on the waiting lists. For an Applicant with no fixed address, such as homeless Households, the address of a social service agency may be used for BHA contacts; however, if the Applicant finds permanent housing, the address must be reported to the BHA in writing at once.

### **3.3.4 Waiting List Updates**

On a regular cycle determined by the Authority, the BHA will send each Applicant on its waiting lists a notice (or other form of communication specified by an Applicant with a Disability) in which an appropriate response notice is enclosed. An Applicant that has through other communication with the BHA expressed wait list interest during the previous cycle will be treated as a completed update.

The notice will request each Applicant to return the response if s/he is still interested in public housing and to indicate on the response any changes in Household size, income, address, and other information as requested. Applicants will have twenty (20) calendar days from date of the notice to respond to the update notice.

As responses are returned, an Applicant's waiting list position is updated for each individual development for which they have applied. If an Applicant does not return the response, the Application is withdrawn from all waiting lists and the Applicant notified of the opportunity to appeal pursuant to Section 4.1.4 (Applicant Appeals/Informal Hearings) of this policy.

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If an update letter to an Applicant is returned to the BHA because the Applicant is no longer at the address to which it was mailed, and the Applicant has not notified the BHA in writing of an address change, the application will be withdrawn from all waiting lists and the Applicant notified of the opportunity to appeal pursuant Section 4.1.4 (Applicant Appeals- Informal Hearings) of this policy.

**3.3.5** All Applicants will be given a Notice entitled: **Notice to All Applicants: Options for Applicants with Disabilities**. This notice explains the BHA's responsibilities for providing reasonable accommodations and recites examples of what a reasonable accommodation might entail.

**3.3.6** Preliminary application forms will not be accepted unless they are complete, legible and signed by the Head of Household and Co-Head of Household (if applicable). (See section 1.3.3 for more information on forms of communication other than plain language paperwork).

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## CHAPTER 4: ESTABLISHING AND MAINTAINING WAITING LISTS FOR THE PUBLIC HOUSING PROGRAMS

### 4.1 Waiting List Management

In the state housing program the BHA shall maintain separate waiting lists for each of its public housing developments. For its federal housing programs the BHA shall maintain waiting lists based on individual developments or on the designated Asset Management Projects (AMPs). In the event that any two or more developments are designated as one AMP, the BHA may continue to maintain a separate site-based waiting list for each development if HUD regulations and policies allow. If required by HUD the BHA shall combine the site-based waiting lists into one consolidated AMP-based list, after giving notice to the affected applicants on those waiting lists. It is the policy of the BHA to administer its waiting lists as required by the U.S. Department of Housing and Urban Development (HUD) and the Massachusetts Department of Housing and Community Development (DHCD) regulations and any approved waivers to said regulations.

#### 4.1.1 Opening and Closing Waiting Lists

1. With respect to one or more development waiting lists/AMP waiting list, the BHA may limit application intake, suspend application intake and close waiting lists in whole or in part except as otherwise provided in Federal or State regulations. The BHA will also update its waiting lists by removing the names of those Applicants who are no longer interested or no longer qualify for housing or cannot be reached by mail, utilizing information provided by the Applicant and in accordance with procedures in 4.1.3.
2. During the period when a waiting list is closed, the BHA **will not** maintain a list of individuals who wish to be notified when the waiting list is reopened.

#### 4.1.2 Determining if a Waiting List may be Closed

The BHA will use the following method to determine whether the waiting list for a public housing development/AMP will be partially or completely closed. The BHA may elect to close the list by Priority and/or Preference category and by bedroom size.

## 1. How to Determine When a Waiting List May Be Closed

- a. Staff will compute the average number of move-ins to each public housing development/AMP per year by bedroom size. In addition, staff will compute the average number of move-ins over the past two years by apartment size.
- b. Each waiting list will then be examined to determine how many Applicants are already on the waiting lists.
- c. If the number of Applicants on the waiting lists **is not sufficient to fill** the average number of move-ins by bedroom size per year, the waiting list will not be closed.
- d. If the BHA determines that the Applicant pool is large enough to fill the estimated amount of available units for the next twelve (12) months, the BHA may close all waiting lists or close only specific waiting lists, or keep part(s) of the waiting list(s) open based on program needs.
- e. At any point after the waiting list has been closed, if the number of Applicants drops below the number of applicants needed to fill the average number of move-ins per year, the BHA will re-open the waiting lists and begin accepting new Applications. The BHA may elect to re-open a waiting list in whole or in part. For example, the BHA may elect to accept Applications only from individuals who appear to qualify for Priority categories or Applicants with disabilities who require an Accessible Apartment or an apartment with special features or for certain bedroom sizes.
- f. When the waiting list is to be closed or re-opened, notification will be placed in the lobby of BHA's central office Housing Service Center, development management offices, social service agencies and other housing application centers and notices will be placed in the media. The notification and notices will specify the development(s)/AMP(s) waiting list(s) affected by the closing or re-opening.

BHA will notify HUD and DHCD prior to closing and re-opening of any waiting list.

#### 4.1.3 Removal of Applications from All Waiting Lists

Applicant's names will be removed from the Waiting Lists of all developments/AMPs they have selected by:

- being housed
- being withdrawn (See Section 4.1.3.1)
- being determined Ineligible ( See Section 4.1.3.2)

In addition, an applicant may withdraw from any or all of the BHA waiting lists at any time by their own written request.

Applicants whose applications are removed from any waiting list are entitled to an informal hearing where they may appeal this decision. A Request for an appeal must be made **in writing** and must be received by the BHA within 20 calendar days of the date of the notice removing them from the waiting list

The BHA will hold the files of Applicants removed from any waiting list for seven (7) years.

#### 1. Withdrawal of an Application

Circumstances that will lead to withdrawal of an Applicant's name from any or all waiting lists include:

- a. The Applicant requests **in writing** that his/her name be removed; **OR**
- b. The BHA has made reasonable efforts to contact the Applicant to determine continued interest or to schedule an interview but has been unsuccessful. Properly addressed correspondence mailed (or sent by other methods designated by an Applicant who is a Disabled Person ) to the latest address provided by the Applicant in writing that is returned by the U.S. Postal Service shall constitute documentation of a reasonable effort to contact the Applicant; **OR**
- c. Failure of the Applicant to keep an appointment:
  1. If an Applicant fails to keep an appointment and fails to notify the Authority, **within ten days**, of his/her inability to keep an appointment, his/her name will be withdrawn from all waiting lists. A statement to this effect will appear on the forms used by BHA to advise Applicants of scheduled interviews or of information required.

2. The Authority will consider Mitigating Circumstances such as health problems, incidents of domestic or dating violence or sexual assault or stalking, or lack of transportation in evaluating whether the Application should be withdrawn as described above. The Authority will also consider a reasonable accommodation that may be necessary for Applicants who are Disabled Persons to keep appointments or provide information. Consideration of Mitigating Circumstances does not relieve the Applicant of the responsibility to provide the information or notify the BHA in writing.

- d. The Applicant has failed to supply sufficient information necessary for screening, see Chapter 5.
- e. Refusal of an appropriate offer of housing for reasons other than those that qualify as a basis for Reasonable Accommodation will result in withdrawal of the Application from all waiting lists.
- f. Failure to respond to the BHA's waiting list update.

## **2. Determination of Ineligibility**

Applications will be determined Ineligible for the following reasons:

- a. The Applicant failed to pay an outstanding balance owed to the BHA or other Federal or State housing assistance program;
- b. The Applicant failed to meet the Applicant selection or home visit criteria pursuant to this policy;
- c. The Applicant failed to pay a previous utility balance that result in a current denial of service by the utility supplier to the Applicant.

## **3. Notice of Withdrawal or Ineligibility**

Applicants removed from a waiting list (s) will receive a written notice, which will:

- a. Inform the Applicant why s/he is being withdrawn or determined Ineligible;
- b. Advise the Applicant of his/her right to request an appeal of the action in an informal hearing within twenty (20) calendar days of the date of the notice. Such request must be in writing and must state clearly the Applicant's reason for requesting the informal hearing.



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

#### **4.1.4 Applicant Appeals – Informal Hearings**

##### **1. Right to an Informal Hearing**

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

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

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

## 2. Scheduling the Informal Hearing

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

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

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

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

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

### 3. Applicant Rights during the Informal Hearing

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

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#### 4. Due Process Requirements

The informal hearing will conform to the following due process requirements:

- a. If the Applicant requests, the BHA employee who made the decision must be present to provide available facts, and to be questioned, if still a BHA employee.
- b. An employee of the Authority who did not participate in the original decision must conduct the hearing.
- c. The decision must be based solely on evidence presented at the hearing as well as any evidence previously received by the BHA. All evidence submitted at the hearing shall be considered de novo, and the matter shall not be sent back to the Occupancy Department for reconsideration due to submission of new evidence.
- d. The Applicant and/or his/her representative has a right to inspect the file prior to the hearing, provided the Applicant provides BHA with written authorizations permitting the representative to have access to the contents of the Applicant's file including CORI information.
- e. Either the Applicant or the BHA may request after close of the hearing that the record remain open for submission of new or rebuttal evidence. The Hearing Officer shall designate a date by which the record shall be closed and may extend it for good cause. The Applicant shall receive notice in writing of the date on which the record will close and of any extension. If BHA wishes to consider additional evidence not submitted at the hearing or submitted after the hearing, it shall give written notice to the Applicant with an opportunity to review such evidence and a reasonable period for the Applicant to respond.

#### 5. Informal Hearing Decisions

After the informal hearing, all Applicants will be sent an “**Informal Hearing Decision**” from the BHA hearing officer. This notice shall:

- a. Provide a summary of the hearing;
- b. Provide the decision of the hearing officer, together with findings and determination;
- c. Provide an explanation of the regulations and/or other applicable provisions utilized in making the decision;

- d. Explain the rights of the Applicant to seek reconsideration by the BHA within 14 days of the decision;
- e. Explain the rights of an Applicant to a state-aided program to request a review of the decision by the Massachusetts Department of Housing and Community Development within 21 calendar days of the decision or decision on reconsideration pursuant to 760 CMR 5.13(4).
- f. All informal hearing decisions shall be made within 15 working days of the close of the hearing or the record, whichever is later.

**6. Reversal of BHA's Determination of Ineligibility, Application Withdrawal, Denial of Priority Status or Preference(s), Denial of Good Cause or Reasonable Accommodation**

- a. If, as a result of information presented by the Applicant at the informal hearing, the BHA reverses its decision to reject the Applicant, no new application is required and the application will be returned to its appropriate place on the waiting list(s) for all developments/AMPs previously selected by the Applicant using the original date and time of application and applicable Priority and/or Preference(s).
- b. If the BHA reverses its decision to withdraw the Applicant, the process described above will repeat.
- c. If the decision to deny Priority status and/or Preference(s), Good Cause or Reasonable Accommodation is reversed, the Applicant's position on the waiting list(s) for all developments/AMPs previously selected by the Applicant will be restored in accordance with the determination.

**7. Confirmation of the BHA's Determination of Ineligibility, application withdrawal, Denial of Priority Status or Preference(s), Denial of Good Cause or Reasonable Accommodation**

- a. If the decision or an appeal upholds the determination of Ineligibility, the Applicant may submit a new application for admission at a time when a waiting list is open but no earlier than 18 months after the decision of Ineligibility. This period of time may permit the Applicant and/or Household Member to correct the behavior or situation that resulted in rejection. A shorter period, as determined by the Authority, to be appropriate under the circumstances of the rejection, or any new Application, may be allowed.
- b. Applicants who are found ineligible for any of the following reasons may re-apply at anytime **if** they meet the preliminary eligibility requirements when they submit a new application and they shall be given a new application date effective the date the application is received by the BHA's Occupancy Department: 1) the Applicant's total

household income was over the income limits; 2) the Applicant had failed to pay an outstanding balance owed to the BHA or other Federal or State housing assistance program; 3) the entire household had no eligible immigration status; 4) the pro-rated rent amount was more than 50% of the total household income; and/or 5) the applicant was not elderly or disabled and, therefore, did not qualify for the elderly/disabled housing program.

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c. Applicants who are withdrawn may submit a new Application at any time provided a waiting list is open.

d. Applicants denied Priority Status, Preference(s), Good Cause or Reasonable Accommodation may re-apply for the same or a different Priority or Preference at any time provided a waiting list is open except as provided for in this policy.

Note: Intentional misrepresentation by an Applicant may result in federal or state criminal prosecution for fraud, and removal from the waiting list, and disqualification from further consideration for admission or transfer for a three (3) year period beginning on the date of such determination by the BHA.

## 4.2 Priorities and Preferences

Certain BHA Applicants may qualify for a Priority and/or Preference, which affects the position of those Applicants on each BHA waiting list.

### 4.2.1 Definitions

1. **Priority** is defined as a housing-related situation that affects a Household's present residential status. The BHA gives points to Applicants with a Priority that ranks those Applicants higher on each waiting list than Applicants without Priority. An Applicant can qualify for only one Priority at any given time. Certain priorities are given more points than others are. An Applicant will always be assigned to the highest Priority for which they qualify. Specific Priority definitions and point information can be found later in this chapter in sections 4.4.3 and 4.4.5.

2. **Preference** refers to points given to BHA Applicants who are veterans, Boston Residents, employed in Boston, offered employment in Boston, a Disabled Person (Family Developments/AMPs only) or Elderly Households who apply for certain developments in accordance with State regulations and the BHA's Designated Housing Program (See Section 10.3, Designated Housing and Section 10.4 Elderly Preference).

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Preference points are cumulative and are added to Priority points (if any) to determine an Applicant's position on each BHA waiting list. An Applicant may qualify for more than one Preference at a time.

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#### 4.2.2 Verification

BHA will provide to each potential Applicant a description of each Priority and Preference available to Applicants. BHA will verify the Priority and/or Preference during the application process-as part of both the preliminary and final eligibility processes (See Section 4.4.3).

#### 4.2.3 Matching of the Applicant and the Apartment Characteristics

Before applying Priorities and Preferences, BHA will determine the appropriate apartment size, and special needs requirements if any, based on Household composition and special needs required. In making the selection of a Household for an apartment with accessible features, the BHA will give preference to Households with the greatest number of Priority/Preference points, the earliest approval date for said Priority/Preference points and earliest application date that include a person with disabilities who has a specific need for the apartment features.

#### 4.2.4 Ranking by Priority and/or Preference Points

Applicants will be ranked on each selected development's/AMPs waiting list by Priority and/or Preference points, which are described below. Date Priority and/or Preference points are granted and original Application date will further rank each Applicant.

Although the BHA has adopted specific ranking categories, the order in which they are ranked is different in the BHA's State and Federal Public Housing Programs. A chart for each program listing the ranking categories and the order in which they are ranked follows:

**Note:** Approved Administrative Transfers will be offered housing before all ranking clients. Approved Special Circumstances Transfers shall be offered every other 4th unit by waiting list by bedroom size and appropriate unit type. On-site Under or Over Housed transfers shall be offered every 8<sup>th</sup> unit by development by bedroom size when the site is at 98% occupancy. See Chapter 6.

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**BHA PRIORITY CATEGORIES**

**Federal Housing Programs**

**Administrative Transfers**

**Supported Housing Programs**

**Priority One:**

Displaced Due to Disaster  
 Displaced Due to Domestic Violence/  
 Dating Violence/Sexual Assault/  
 or Stalking  
 Victim of Hate Crime  
 Avoidance of Reprisal/Witness Protection  
 Court Ordered no Fault Eviction  
 Condemnation  
 Urban Renewal  
 Other Government Action  
 Inaccessibility of Dwelling Unit  
 Homelessness

**Priority Two:  
 (Elderly/Disabled  
 Program Only)**

Excessive Rent Burden  
 Imminent Landlord Displacement

**Standard Applicants**

**Special Circumstances Transfers**

**On-Site Under or Over Housed Transfers**

**State Housing Programs**

**Administrative Transfers**

**Supported Housing Programs**

**Priority One:**

Displaced Due to  
 Natural Disaster

**Priority Two:  
 Urban Renewal  
 Condemnation**

**Priority Three:**

- Displaced Due to Domestic Violence/Dating Violence/Sexual Assault/or Stalking
- Victim of Hate Crime
- Avoidance of Reprisal/Witness Protection
- Court Ordered No Fault Eviction
- Inaccessibility of Dwelling Unit
- Homelessness
- BHA Resident in Federal Program "Termination of Assistance" due to Lack any household member with eligible immigration status.

**Priority Five:**

AHVP (Alternative Housing Voucher Program

**Priority Six: (Elderly/Disabled Program Only)**

Excessive Rent Burden  
 Imminent Landlord Displacement

**Standard Applicant**

**Special Circumstances Transfers**

**On-Site Under or Over Housed Transfers**



**Note:** Approved Special Circumstances Transfers shall be offered every other 4th unit by waiting list by bedroom size and appropriate unit type. On-site Under or Over Housed transfers shall be offered every eighth unit by development by bedroom size when the site is at 98% occupancy. See Chapter 6

#### 4.2.5 Determining Placement on Waiting List

Priority and Preference points are added together to determine position on each selected development's/AMP's waiting list. The more points an Applicant has and the earlier the date such points are granted, the higher on the list the Applicant will be in relation to other persons who applied for the same bedroom size and hold the same date of preliminary application

#### 4.3 Organization of the Waiting Lists

The BHA maintains a waiting list for each of its public housing developments/AMPs. Each waiting list is maintained by apartment size, Applicants' Priority and/or Preference points and the date such points are granted and then chronologically according to application date.

Assignments to each waiting list shall be in order based upon suitable type and size of apartment, date Priority and/or Preference points are granted as established in these policies and the date and time the application is received. Generally, an Eligible Applicant with the highest Priority and/or Preference points and the earliest date of approval of such Priority and/or Preference points per category of apartment size will be placed at the top of each waiting list. If no Application with approved Priority and/or Preference points exists, an Eligible Applicant with the earliest date and time of application will be placed at the top of each waiting list.

In the event the BHA merges two or more waiting lists as a result of two or more developments being designated as one AMP, the BHA shall, after giving notice to the affected applicants, rank each applicant on the single waiting list by providing each client with their respective oldest application date **and** approved Priority and/or Preference sequence dates.

#### 4.4 Application of Priorities and Preferences to the Waiting Lists

##### 4.4.1 Not a Guarantee of Admission

It is BHA's policy that a Priority and/or Preference establishes placement position on a waiting list. Every applicant must still meet BHA's **Applicant Screening Criteria** (see Section 5.3.3) before being accepted as a resident.

#### 4.4.2 Granting of Priorities and/or Preferences

A Priority and/or Preference will be granted to Applicants who are otherwise Eligible and Qualified and who, at the time they are certified for admission meet the definitions of the Priorities and/or Preferences described below.

Priorities and/or Preferences are established by the BHA in accordance with HUD and DHCD regulations.

#### 4.4.3 Priority and/or Preference System

The following system of Priorities and/or Preferences will be used for new admissions to and transfers within BHA housing:

All requests for Priority Status must be verified by a third party Information shall be submitted on Certificates of Priority Status and/or another form of written verification from a reliable third party as determined by the BHA. All requests for Priority status will be reviewed prior to the Personal Interview and/or as part of the final screening process.

During the review of documents submitted for Priority status, it may be necessary to obtain additional documentation in order to complete the review. In this case, the Occupancy Department will send (or give) the Applicant a notice entitled "**Priority Status Request – Insufficient Documentation Notice**" detailing the information still needed to complete the review for Priority status.

Applicants who do not qualify for Priority status based on a review of the documents submitted are sent (or given) a notice entitled "**Notice to Applicants Denied Priority Status**" detailing the specific reason(s) for the denial of priority. This notice informs applicants of their right to appeal the denial of Priority status through the informal hearing process conducted by the BHA's Grievance and Appeals Department.

Applicants will be sorted on each waiting list in accordance with their Priority and/or Preference(s). The BHA considers residents seeking transfers as Applicants and as such they will be provided the opportunity to select the development/AMP waiting lists to which they choose to apply. The ranking categories utilized by the BHA are outlined below.

##### 1. Special Circumstances Transfers

For a complete listing of definitions of each Special Circumstances Transfer Category and the verification required for each category, please refer to Section 7.2 of Chapter 7, "Transfer Policy."

Approved Special Circumstances Transfers shall be offered every other fourth unit by waiting list by bedroom size and appropriate unit type. See Chapter 6.

## 2. Supported Housing Programs- See Chapter 10.

### 3. Priority Applicants

Priority status for admission shall be granted to Applicant Households whose verified circumstances at the time of an offer of an apartment (prior to execution of the lease) fall within one of the following categories:

A. ***Displacement due to a disaster***, such as flood or fire, that results in the un-inhabitability of an Applicant's apartment or dwelling unit not due to the fault of the Applicant and/or Household member or beyond the Applicant's control;

Verification must include:

1. a copy of the incident report from the local Fire Department, and
2. a copy of his/her lease, or a statement from the property owner, verifying that s/he is/was the tenant of record at the affected address, and
3. verification from the Fire Department, the Inspectional Services Department, the Health Department or other appropriate agency that the dwelling unit is now uninhabitable.
4. the cause of the disaster if known. If the Applicant or a Household Member or guest was the cause of the disaster, approval for Priority status will be denied unless Mitigating Circumstances are established to the satisfaction of Occupancy Department Staff.

B. ***Displacement due to domestic violence/Dating Violence/Sexual Assault or Stalking***, which is defined as displacement from an address where the Applicant is/was the tenant of record due to sexual assault, continuing actual or threatened physical violence (including sexual abuse) directed against one or more of the household members.

Verification must include submission of a fully completed "Certificate of Involuntary Displacement Due to Domestic Violence/Dating Violence/Sexual Assault or Stalking" or third-party, written verification from the local police department, a social service agency, a court of competent jurisdiction, a clergy member, a physician, or a public or private facility that provides

shelter or counseling to the victims of sexual assault or domestic violence. Such verification will not be considered valid unless it:

- a. Supplies the name of the abuser
- b. Describes how the situation came to verifier's attention; and
- c. Indicates that the threats and/or violence are of a recent (within the past six-(6) months) or continuing nature if the Applicant is still residing in the dwelling where the violence has occurred or is occurring.
- d. Indicates that the Applicant has been displaced because of the threats and/or violence or that the Applicant is in imminent danger where he/she now resides.

The Applicant must supply the name and address of the abuser **AND**

Provide documentation that the Applicant is/was a tenant of record.

C. **Victim of hate crime:** A member of the Household has been a victim of one or more hate crimes AND the Household has vacated a dwelling unit because of this crime OR the fear associated with the crime has destroyed the peaceful enjoyment of the dwelling unit;

- "Hate crime", is defined as any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender or sexual orientation, gender identity, prejudice, or which otherwise deprives another person of his/her constitutional rights by threats, intimidation or coercion, or which seeks to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation.

Verification must include submission of a fully completed "Certificate of Involuntary Displacement by Hate Crimes" or documentation from a law enforcement agency that the Household Member(s) was a victim of such crime(s); **and**

- a. has vacated the dwelling unit because of such crime(s); **or**

- b. has experienced fear associated with such crime(s) and the fear has destroyed the peaceful enjoyment of their current dwelling unit.

**D. Avoidance of reprisal/witness protection:** Relocation is required because: (A) a Household Member provided information or testimony on criminal activities to a law enforcement agency; and (B) based upon a threat assessment, a law enforcement agency recommends the relocation of the Household to avoid or minimize risk of violence against Household Members as reprisal for providing such information.

Verification requirements:

- a) Submission of a fully completed "Certificate of Involuntary Displacement to Avoid Reprisal" or documentation from a law enforcement agency that the Applicant and/or a Household Member provided information on criminal activity; **AND**
- b) Documentation that, following a threat assessment conducted by the agency, the agency recommends the relocation/re-housing of the household to avoid or minimize the threat of violence or reprisal to or against the Household Member(s) for providing such information.

This includes situations in which the Applicant and/or Household Member(s) are themselves the victims of such crimes and have provided information (testimony) to a law enforcement agency.

**E. Court-ordered no-fault eviction:** eviction pursuant to an Order for Judgment (or Agreement for Judgment) issued by a court because of: (a) Landlord action beyond the applicant's ability to control or prevent, and the action occurred despite the applicant's having met all previously imposed conditions of occupancy and displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and overcrowded units or failure to accept a transfer to another unit in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.

Verification Requirements (ALL documents are required):

- a) submission of a fully completed "Certificate of Involuntary Displacement by Landlord Action"; **and**

- b) a copy of the Notice to Quit issued by the landlord or property manager; **and**
- c) a copy of the Summons and Complaint available from the court; **and**
- d) a copy of the Answer or other response(s) filed by the Applicant in court in response to the Complaint, if any; **and**
- e) a copy of the Judgment of the Court ( Agreement for Judgment, Order for Judgment and Findings of Fact, or Default Judgment); **and**
- f) if applicable, a copy of the execution issued by the court.

The information contained in the above-referenced documents must clearly establish to the satisfaction of the BHA that:

1. the action taken by the landlord or property manager was beyond the Applicant's ability to control or prevent;
2. the action by the landlord or property manager occurred despite the Applicant Household having met all previously imposed conditions of occupancy;
3. displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and over-crowded Apartments or failure to accept a Transfer to another Apartment in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.
4. displacement was not as a result of non-payment of rent when there were no extenuating circumstance such as a rent increase or loss of income, therefore, the non-payment of rent is beyond the Applicant's ability to control or prevent the court-ordered eviction due to non-payment of rent. The following is a list of some of the additional required verification:
  - a) Verification of the gross income for ALL household members at the time the unit was rented and when the non-payment of rent started.
  - b) Copies of bills and proof of payment history for all utilities listed in the Applicant's or Applicant's household members' name. The payment history must show when services connected and disconnected (when applicable) and the monthly charges and payment history.
  - c) Copies of the mortgage payment history, if applicable.

- d) Other applicable documentation to demonstrate that the non-payment eviction was due to unforeseen circumstances beyond the Applicant's ability to control or prevent the non-payment eviction.

Failure to establish any one of the above referenced elements will result in denial of Priority status.

**F. Condemnation of house/apartment:** the applicant's housing has been declared unfit for habitation by an agency of government through no fault of the Applicant.

Verification Requirements:

- a) third-party, written verification from the appropriate unit or agency of government certifying that the Applicant has been displaced or will be displaced in the next ninety days, as a result of action by that agency; **and**
- b) the precise reason(s) for such displacement.

**G. Displacement by any low-rent housing project or by a public slum clearance or urban renewal project** initiated after January first, nineteen hundred and forty-seven, or other public improvement.

Verification Requirements:

- a) third-party, written verification from the appropriate unit or agency of government certifying that the Applicant has been displaced or will be displaced within the next ninety days, as a result of action by that agency, **and**
- b) the precise reason(s) for such displacement.

**H. Other Government action (Federal Only):** A Household is required to permanently move from their residence by a Federal, State or local governmental action such as code enforcement, public improvements or a development program.

Verification Requirements:

- a) third-party, written verification from the appropriate unit or agency of government certifying that the Applicant has been displaced or will be displaced in the next ninety days, as a result of action by that agency; **and**
- b) the precise reason(s) for such displacement.

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

Verification Requirements:

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

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

a) A supervised public or private shelter designed to provide temporary living accommodations (includes welfare hotels, congregate shelters and transitional housing and rapid re-housing);  
or

b) A public or private place not designed for human habitation.

c) An Applicant or a member of his/her household is suffering from a medical condition or disability which precludes him/her from residing in a public or private shelter.

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



Persons who temporarily move to a shelter for the sole purpose of qualifying for this priority shall be determined ineligible.

Verification Requirements:

1. Submission of a "Certificate of Homelessness" fully completed by an appropriate source that he/she lacks a fixed, regular and adequate nighttime residence; or his/her primary nighttime residence is:
  - a. a supervised public or private shelter designed to provide temporary housing accommodations (i.e., welfare hotels, congregate shelters and transitional housing);
  - b. a public or private place not designed for human habitation; and
2. A third-party written verification from a public or private facility that provides shelter for homeless individuals, the local police department, or a social services agency, certifying the Applicant's homeless status in accordance with the definition in this policy.
3. Medical documentation verifying the existence of the medical condition or disability including the reason(s) the Applicant may not reside in a public or private shelter and acceptable verification of the current housing arrangements.

**K. AHVP – Alternative Housing Voucher Program (STATE ONLY)**

**L. EXCESSIVE RENT BURDEN (ELDERLY/DISABLED PROGRAM ONLY):** The household pays more than 50% of its total monthly income for rent and utilities (excluding telephone, Internet and cable TV).

Verification Requirements:

1. Submission of a fully completed "certificate of excessive Shelter Costs" form ; and
2. Verification of the gross income for ALL household members; and
3. Copies of bills and proof of payment for all utilities listed in the Applicant's name for which s/he actually pays.

M. **BHA Resident in Federal Program “Termination of Assistance”** due to Lack any household member with eligible immigration status.

Verification requirements:

1. Notice of Termination of Assistance
2. Notice of Private Conference or Notice to Quit.

N. **IMMINENT LANDLORD DISPLACEMENT FROM A UNIT WITHIN THE CITY OF BOSTON (ELDERLY/DISABLED PROGRAM ONLY)** You have not yet been evicted by Court-order BUT your landlord has notified you that you must vacate your dwelling unit through no fault of your own, unrelated to a rent increase, and you have actually vacated the dwelling unit or you will vacate the dwelling unit within the next six (6) months.

Verification requirements:

1. Submission of “Certificate of Involuntary Displacement by Landlord Action” form; and
2. Copies of any notices from the landlord to the Applicant regarding the termination of the tenancy.

The information contained in the above referenced documents must clearly establish to the satisfaction of the BHA that:

1. the action taken by the landlord or property manager was beyond the Applicant’s ability to control or prevent;
2. the action of the landlord or property manager occurred despite the Applicant Household having met all previously imposed conditions of occupancy;
3. displacement was not the result of failure to comply with HUD or DHCD policies in its housing programs with respect to occupancy of under-occupied and overcrowded Apartments or failure to accept a Transfer to another Apartment in accordance with a court order or policies or procedures under a HUD/DHCD-approved desegregation plan.

Failure to establish any one of the above referenced elements will result in denial of Priority Status.

### 3. On-Site Under or Over Housed Transfers

For complete definitions of each Under or Over Housed Transfer category and the verification required for each category, please refer to Section 7.2.3 of Chapter 7, "Transfer Policy."

### 4. Standard (no Priority) Applicants

Standard Applicants who qualify for no priority.

#### 4.4.4 Preference System

The Preference system below applies only to Applicants for admission on BHA waiting lists.

Within Priority categories, and within the standard "no Priority" category (i.e., standard applicants), Applicants may also receive Preference points. Preference points are assigned to veterans, , handicapped/disabled Applicants (Family Program/AMP only), Elderly Households who select certain developments in accordance with state regulations and the BHA's Designated Housing Plan and Boston residents. Preference points will be added to Priority points to determine an Applicants' placement on each BHA waiting list. Thus a Priority Two Applicant with a residency Preference will be ranked above a Priority Two Applicant with no Preferences. Veterans, non-elderly disabled, Elderly Preference (State), Designated Housing (Federal) and Boston residency Preferences are cumulative, so an Applicant with more than one Preference (i.e., Veterans and residency) will be ranked higher within his or her Priority category than an Applicant with only one Preference.

The Preference categories are described below.

#### 1. Veterans Preference

In all federal developments/AMPs and in state developments, the Veterans' Preference shall be ranked above the residency Preference.

A "veteran", as used in this Admission and Continued Occupancy Policy (ACOP) shall include the Veteran, the spouse, surviving spouse, Dependent parent or child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a child of a Veteran.

Verification Requirement:

- (i) Applicants claiming a Veteran's Preference must provide a copy of the discharge documents of the Veteran for whom

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the Preference is claimed. The Veteran's Preference is only applicable to Veterans and/or immediate families of Veterans who were discharged under circumstances other than dishonorable.

2. Disabled Non-Elderly Persons who do not require wheelchair accessible units will receive Preference points on Family development/AMP waiting lists only. Households claiming this preference must verify their Household composition and show that the Head or Co-Head of Household is disabled.
3. Designated Housing Preference ( Federal Elderly/Disabled Program Only)  
Disabled Head or Co-Head Applicants who are under 62 years of age and are on a Federal Elderly and Disabled Program designated development/AMP wait list where the non-elderly disabled resident population is less than 20% **AND** who do not require wheelchair accessible units will receive preference points. The Designated Housing Preference shall be further ranked in the following order:
  - Among households (i.e. within the same housing Priority category), first Preference shall be given to non-elderly disabled households whose Head and/or Co-Head is/are under 62 years of age.
  - Among households (i.e. within the same housing Priority category), second Preference shall be given to households whose Head and/or Co-Head is/are Elderly (62 years of age or older).
4. Designated Housing Preference( Federal Elderly/Disabled Program Only)  
Applicants who are 62 years of age or older and are on a Federal Elderly and Disabled Program designated development/AMP wait list where the elderly resident population is less than 80% **AND** who do not require wheelchair accessible units will receive preference points. The Designated Housing Preference shall be further ranked in the following order:
  - Among households (i.e. within the same housing Priority category), first Preference shall be given to households whose Head and/or Co-Head is/are 62 years of age or older.
  - Among households (i.e. within the same housing Priority category), second Preference shall be given to households whose Head and/or Co-Head is/are Non Elderly Disabled (<62 years of age).

5. Elderly Preference (State Elderly/Disabled Program Only)  
Applicants who are sixty (60) years of age or older and are on a State Elderly and Disabled Program development waiting list where the Disabled resident population is at least 13.5% will receive preference in admissions over Applicants who are under sixty (60) years of age (See Section 10.4).

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6. Displaced Boston Tenant Preference

The BHA shall give two (2) Preference points to an Applicant who was displaced from a unit within the City of Boston that was the Applicant's last permanent residence

- (1) No length of Residency Required

This Preference is not based on how long an Applicant was resident of the City of Boston, but only upon the establishment and proper verification of residency within the City Of Boston.

- (2) Verification Requirements

To receive this Preference, an Applicant must verify that: (1) they were displaced from a unit within the City of Boston, (2) that the unit was the Applicant's last permanent residence, and since the Applicant has been unable to obtain permanent housing. The following documentation is a non-exhaustive list of documentation that may be used, in conjunction with Priority documentation that establishes displacement, will verify the Displaced Boston Tenant Preference:

- (a) Landlord verification;
- (b) A copy of a Lease;
- (c) Utility Bill (electric, gas, oil, or water)
- (d) Mortgage Payments;
- (e) Taxes;
- (f) Other verification deemed acceptable or necessary by BHA.

7. Residency Preference shall be given to BHA Applicants who are residents of the City of Boston, who work within the City of Boston, whose last permanent address was in the City of Boston and applicant has not claimed local residency preference in another community where the applicant is temporarily residing OR who have been offered employment in the City of Boston. Residency Preference shall not have the purpose or effect of delaying or otherwise denying admission to the program based

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on the race, color, ethnic origin, gender, gender identity, religion, disability or age of any member of an Applicant household.

Applicants claiming a Boston Resident Preference shall be required to verify this through:

1. Proof of residency at an address within the Boston city limits (No length of stay verification will be imposed on Applicants claiming this Preference.); **or**
  2. Proof that the Applicant is currently employed or has obtained employment in the city; **or**
  3. Proof that the Applicant's last permanent address was within the Boston city limits; and
  4. Proof that an Applicant has not claimed local preference in another community.
8. BHA residents residing in federally funded developments/AMPs who are financially affected due to pro-rated rent where the rent is 50% or more of the household's total gross income.

#### 4.4.5 Point System

1. The **Priority point system** used by BHA to process new admissions and transfers for all waiting lists for Family and Elderly/Disabled Developments/AMPs is as follows:

##### **Federal Housing Programs:**

- Administrative transfers **175 points**
- Special Circumstances Transfers **67 points**
- Supported Housing Programs **50 points**
- Priority One Applicants **30 points**
- Priority Two Applicants **10 points**
- On-Site Under or Over Housed Transfers and Standard Applicants **0 points**

##### **State Housing Programs:**

- Administrative transfers **175 points**
- Special Circumstances Transfers **70 points**
- Priority One Applicants **60 points**
- Supported Housing Programs **55 points**
- Priority Two Applicants **50 points**

- Priority Three Applicants **30 points**
- Priority Four Applicants **20 points**
- Priority Five Applicants **10 points**
- Priority Six Applicants **9 points**
- Under or Over Housed and Standard Applicants **0 points**

2. **Preference points** will be added to Priority points as follows for Applicants for admission only:

- Veterans Preference **3 points**
- Non-Elderly Disabled Household **not requiring Wheelchair Accessible units**  
(Family Developments/AMP only) **6 points**
- BHA resident in Federal Housing Pro-Rated rent burden (State only) **3 points**
- Designated Housing (Federal Elderly/Disabled Program only) Non-Elderly Disabled **-not requiring Wheelchair Accessible units** **100 points**
- Designated Housing (Federal Elderly/Disabled Program only) Elderly **not requiring Wheelchair Accessible units** **100 points**
- Elderly Preference(State Elderly/Disabled Program only) **24 points**
- Displaced Boston Tenant Preference **2 points**
- Residency Preference **1 point**

3. Approved Special Circumstances Transfers shall be offered every other 4th unit by waiting list by bedroom size and appropriate unit type.

4. On-site Under or Over Housed transfers shall be offered every 8<sup>th</sup> unit by development by bedroom size when the site is at 98% occupancy. See Chapter 6.

## 4.5 Administrative Transfers

The BHA is occasionally required to initiate transfers that have not been requested by a resident. These transfers are required in order to free an apartment(s) for an important operational or policy reason.

Typically, specific apartments must be identified for each Administrative Transfer. The BHA will consider the resident's documented need(s) for an on-or off-site transfer. Administrative Transfers will be placed on an on-site or off-site waiting list in accordance to the BHA's and resident's needs and thus are not available for matching under the point system described in Section 4.5.4 above. Administrative Transfers will be assigned before any other transfer type and new admissions. Administrative transfers include the following categories:

- Relocation necessary due to a redevelopment, capital improvement program, or extraordinary maintenance; or
- Compliance with legislative or regulatory requirement(s), for example sanitary code enforcement; or
- In Federal Developments/AMPs, Households Over housed by two or more bedrooms; or
- In State Developments, Households Over housed by two or more bedrooms; or
- Relocation necessary to free an accessible apartment to accommodate another BHA resident or Applicant with a disability who requires an accessible apartment or an apartment with special features; or
- The relocation is necessary due to the household's current and on-going threat(s) as a result of domestic violence/sexual assault/dating violence/stalking which has been documented, investigated, and recommended by the BHA's Public Safety Department or other sources deemed acceptable by the BHA Director of Occupancy or such other person as may be designated by the BHA Administrator.

## 4.6 Change in Priority and/or Preference Status While on a Waiting List

### 4.6.1 Change in Status

Occasionally, Households on a waiting list who did not qualify for any or a certain Priority and/or Preference at the time of application will experience a change in circumstances that qualifies them for a different Priority and/or Preference. In such instances, it is the Applicant's obligation to contact the Authority so that a change in status can be verified.



#### 4.6.2 Verification

To the extent that the verification determines that the Household does not now qualify for a Priority and/or Preference, the Household will be moved up on any waiting list previously selected in accordance with its Priority and/or Preference(s), and the date such Priority and/or Preference(s) is approved. Similarly, removal of a Priority and/or Preference (because a Household is discovered to be ineligible for a Priority and/or Preference) will result in a reduction of waiting list points, and therefore change of waiting list position, for the Household. The Household will then be informed in writing of how the change in status has affected its place on any waiting list previously selected. Intentional misrepresentation by an Applicant may result in federal or state criminal prosecution for fraud, and removal from the waiting list, and disqualification from further consideration for admission or transfer for a three (3) year period beginning on the date of such determination by the BHA.

#### 4.7 Applicant Family Break-Up Policy

An Applicant Family Break-Up occurs when a Head and Co-head of household will no longer reside together and/or there is a dispute as to who will retain the original Application date or any approved Priority and/or Preference(s). An Applicant Family Break-Up situation where only one individual signed the Application (i.e., where there is a Head but no Co-head of household) occurs in instances of domestic violence and where an Adult(s) who is/are not currently a household member(s) advances a claim on behalf of a minor or incapacitated Head who is/are on the Application's household composition.

When the BHA receives notice that a Family has broken up or will imminently break-up, the BHA will make the determination of which Family member will retain what Application date and or any approved Priority and/or Preference(s) using the criteria and the procedure provided below.

(a) Split between Head and Co-Head of Household

When the Head and Co-Head of Household no longer wish to reside with each other, the BHA will split the application between the two.

(1) Application Date and Priority/Preference for Split Household

If both Head and Co-Head signed the original application and both qualified for the Priority and/or Preference(s) status that was selected by the united Family, prior to the Break-up, both the Head and Co-Head shall retain the original application date and Priority status. Otherwise,

only the portion of the Family that qualifies for the Priority and/or Preference(s) status selected prior to the break-up shall retain such Priority and/or Preference(s).

- (2) If the Co-Head was added at a later date, s/he shall be approved for the application date equal to the date when s/he was added to the application of the individual who originally applied. The BHA will determine if there are any applicable Priority and/or Preference(s) based on the documentation that was submitted when the Co-head was added to the application.
- (b) BHA Determination in cases of a split between a Head of Household and other Adult Household member due to domestic violence:
- (1) If a court has determined the disposition of the Family's Application in a divorce or separation under a court order or court approved settlement (provided that no provision is against State or Federal Housing regulations), the BHA is bound by the court's determination as to which Household Member(s) will continue with the Application. Such a determination cannot be appealed through the BHA review process, as it is the court's determination and not the BHA's determination that governs.
  - (2) In the absence of a court order, the BHA shall determine whether the Family member who did not sign the Application should be given a separate Application. The BHA will make this determination based on individual circumstances.
  - (3) Verification Requirements
    - (i) A third-party, written verification from the local police department, a social service agency, a court of competent jurisdiction, a clergy member, a physician, or a public or private facility that provides shelter or counseling to the victims of domestic violence.
    - (ii) Verification will not be considered valid unless it:
      - Supplies the name of the threatening or abusive Household Member

- Describes how the situation came to verifier's attention, and Indicates that the threats and/or violence are of a recent (within the past six [6] months)

(c) Notice of Proposed Disposition of Application

A notice shall be sent to any and all addresses identified by the Head of Household and Co-Head of Household, and not solely to the last address for the Head of Household.

In cases where a Household Member who is an alleged victim of Domestic Violence, but is not a Head or Co-Head of Household requests a separate application, the notice shall describe what factors BHA utilized in arriving at its decision. The notice shall also state the alleged victim of Domestic Violence has twenty (20) days to request a review of the decision.

- (d) Any adult granted the Application is subject to fulfill all preliminary and final eligibility requirements governed by the ACOP or its successor.

4.7.1 Procedure Where There is a Family Break-Up and Adults Who Are Not Currently Household Members Advance a Claim on Behalf of Minor or Incapacitated Household Members.

- (a) Where there has been an Applicant Family Break-Up with one or more remaining Minor and/or incapacitated Household Members and no remaining Co-Head, AND The result of the Break-up was due to reasons included but not limited to death, incarceration, or incapacitation of the Head, AND one or more adults who are not currently Household Members advance a claim that they wish to become the Head of Household on behalf of one or more remaining Minor or incapacitated Household Members, AND there is a dispute about who should become the Head of Household, the BHA shall determine which such claimant, if any, shall take over the Application.
- (b) In the event the remaining Household Member(s) is an incapacitated Adult who is unable to fulfill the Family obligations, the proposed Applicant must be an adult who has been appointed either a temporary or permanent guardianship, and is willing to assume the obligations and responsibilities as Head of Household.
- (c) Any adult granted the Application is subject to fulfill all preliminary and final eligibility requirements governed by the ACOP or its successor.

## CHAPTER 5: DETERMINATION OF ELIGIBILITY

### 5.1 Preliminary Eligibility

#### 5.1.1 Eligibility

Eligibility is determined differently under federal and state regulations.

##### 5.1.1.1 Notice of Preliminary Eligibility

Applicants shall receive a Notice of Preliminary Eligibility for all developments/AMPs to which they applied to and met the Threshold Requirements. This notice shall contain:

- A listing of the development(s)/AMP(s) to which they applied
- The size and type of apartment they qualify for
- Any approved Priority and/or Preference(s)
- An estimated wait time

The Notice shall further inform Applicants that they are responsible for notifying the BHA in writing of any change to their household including any approved priority status or change of address and that all information will be verified as part of a final eligibility process.

#### 5.1.2 Threshold Requirements

##### A. Family Program

In order to be preliminarily Eligible for the Family Program a Household must meet three threshold requirements:

1. The Household must qualify as a "**Family**";
2. The Household must have an **Annual Income at or below program guidelines**, as defined below; and
3. The Applicant must not owe uncollected rent and/or miscellaneous charges (for any program administered by the BHA or Other Publicly Assisted Housing Program<sup>5</sup>).

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<sup>5</sup> Other Publicly Assisted Housing Program – means residence in any housing program assisted under M.G.L. Chapter 121B (such as state-assisted public housing for families, elderly or disabled persons), or Massachusetts Rental Voucher Program or assisted under the United States Housing Act of 1937 as amended (42 U.S.C. 1401 *et seq.*) (such as federally-assisted public housing for families, elderly or disabled persons, Section 8 certificate/voucher, project-based certificate, moderate rehabilitation, loan management/property disposition leased housing program, Indian housing, or tenant-based assistance under the HOME program)

### **B. Elderly and Disabled Program**

In order to be preliminarily eligible for the Elderly and Disabled Program a Household must meet four threshold requirements:

1. The Household must qualify as a **“Family”**;
2. The Head of Household, Co-Head of Household or Sole Member must be 62 years of age or older (60 years of age or older for State-Aided Housing) or handicapped or Disabled.
3. The Household must have an **Annual Income at or below program guidelines**, as defined below; and
4. The Applicant must not owe uncollected rent and/or miscellaneous charges (for any program administered by the BHA or Other Publicly Assisted Housing Program<sup>6</sup>.)

#### **5.1.3 Family**

Applicants must qualify as a “Family”, which is defined as:

1. Two or more persons regularly living together, related by blood, marriage, adoption, guardianship or operation of law; or who are not so related, but share income and resources and intend to live together in BHA housing;
2. This definition includes single persons.<sup>7</sup>
3. Other persons, including foster children, Personal Care Attendants/Live-in Aides<sup>8</sup>, and members temporarily absent (including children temporarily assigned to foster care<sup>9</sup>), may be considered a part of the household if they are living or will live regularly with the household.

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<sup>6</sup> Other Publicly Assisted Housing Program – means residence in any housing program assisted under M.G.L. Chapter 121B (such as state-assisted public housing for families, elderly or disabled persons), or Massachusetts Rental Voucher Program or assisted under the United States Housing Act of 1937 as amended (42 U.S.C. 1401 certificate/voucher, project-based certificate, moderate rehabilitation, loan management/property disposition leased housing program, Indian housing, or tenant-based assistance under the HOME program)

<sup>7</sup> Single persons include: a single woman who is pregnant at the time of admission, a single person who has secured, or is in the process of securing the custody of any individual(s) below the age of 18, an Elderly person, a Person with a Disability or Handicap, a Displaced Person, or a Single Person who is not elderly, disabled, handicapped or displaced, each as defined in Chapter 11 of this Policy.

<sup>8</sup> Personal Care Attendants/Live-In Aides do not have rights of tenancy, nor can they be considered the remaining member of a resident household.

<sup>9</sup> See 24 CFR 5.403.

#### 5.1.4 Income Qualifications

Persons meeting BHA income qualifications are those whose Annual Income at the time of admission, does not exceed the income limits for occupancy established by the U.S. Department of Housing and Urban Development (HUD), or Massachusetts Department of Housing and Community Development (DHCD), as applicable. Income limits are posted separately in BHA offices.

#### 5.1.5 Applicant Owing a Balance to the BHA or Other Publicly Assisted Housing Program

The BHA will check for past balances upon receipt of the **Preliminary Application**. An Applicant who applies owing a balance consisting of uncollected rent and/or miscellaneous charges (for any program administered by the BHA or Other Publicly Assisted Housing Program) will be entered into the BHA database as Preliminary Eligible and the Applicant shall be notified in writing regarding the past debt and the need to pay the balance in full. The notice of preliminary eligibility shall advise the Applicant of the opportunity to dispute the past debt or to establish any mitigating circumstances and/or reasonable accommodation and of the right to seek a review of the determination on mitigating circumstances and reasonable accommodation. The Authority will consider mitigating circumstances and/or reasonable accommodation such as health problems, incidents of domestic or dating violence or sexual assault or stalking, or other applicable circumstances in evaluating whether the applicant shall be deemed responsible of payment of the past debt or deemed ineligible for the BHA public housing programs. All applicants will be required to have paid in full any amount owed prior to entering the final eligibility process unless the applicant has established mitigating circumstances or qualifies for a reasonable accommodation. All applicants shall be entitled to due process as outlined in Chapter 4.1.4.

### 5.2 Final Eligibility

#### 5.2.1 Eligibility Determination

In order to be determined eligible, the Applicant, and other members of the Applicant's household must demonstrate through verified information of past and present conduct, the ability, either alone or with a reasonable accommodation, if the Applicant household member is a Disabled Person, to meet the resident selection criteria found in this policy, including compliance with the terms of BHA's lease, and any other BHA rules governing tenancy. In determining final eligibility the BHA will, in all cases, consider Mitigating Circumstances including and not limited to incidents of domestic or dating violence or sexual assault

or stalking, and, any request for a reasonable accommodation on account of a Disability.

### 5.2.2 Qualified and Unqualified Applicants

To determine final eligibility, verified information will be secured by the BHA and the Applicant (See 5.3) and evaluated and a determination will be made by the BHA with respect to:

1. Eligibility of the Applicant household as a Family;
2. Eligibility of the Applicant Household as an Elderly Household or Disabled Person;
3. Eligibility of the Applicant household with respect to income limits for admission;
4. Apartment size and design and whether an accessible or modified apartment is required for the household;
5. Priority and/or Preference category (if any) to which the household belongs;
6. Qualification of the Applicant household with respect to the Applicant Screening Criteria.
6. The Applicant head of household must have verifiable identification with photograph of that Applicant.
7. **Each** household member must have a Social Security number or certify that he/she has no number. In addition, for Applicants for federally assisted housing only, **each** household member must document that s/he is a citizen of United States or has eligible Non-Citizen status, or who is otherwise eligible for continued assistance or prorated assistance under applicable regulations.<sup>10</sup>
8. **The calculated pro-rated rent for admission shall not exceed 50% of the household's total gross income (federally funded programs only).**

Factors that determine that an Applicant household is Eligible and Qualified can be found in the sections below.

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<sup>10</sup> See Section 5.6.1.

## 5.3 Screening

### 5.3.1 General Verification Requirements

#### 1. What must be verified

All information concerning an Applicant household's composition, income, Priority status, Preferences, request Good Cause or reasonable accommodation such as the need for special apartment features, and ability to reside in public housing under the terms of the BHA's Lease (Screening) must be verified and documented. Except for determination of Priority status, which is completed prior to the Personal Interview and Screening, all information shall be verified during Screening.

#### 2. Documentation

All documents related to verification shall be maintained in the Applicant's file folder.

Documentation used as part of the verification process may include:

- Copies of documents that will be retained in the Applicant's file folder, where the original is not otherwise required by law or regulation.
- Checklists completed as part of the interview process and signed by the Applicant and/or the Occupancy Specialist.
- Verification forms completed and signed by third parties and/or Applicant.
- Reports of all interviews, telephone conversations or personal contact with or regarding the Applicant household including date of the conversation, source of the information, name and position of the individual contacted, name and position of staff member receiving information and a written summary of the information received.
- All correspondence received for or on behalf of the Applicant.
- Applicant Background Check and Eviction Reports.



### 3. Misrepresentation or Falsification of Information

An Applicant's knowing falsification, misrepresentation, or concealment of information will be considered grounds for denying admission to BHA housing.

In the event that the Occupancy Staff person believes that false and/or inaccurate information was or may have been submitted intentionally the Applicant Folder will be reviewed by the Assistant Director of Occupancy or the Director of Occupancy who will make the determination. In this case, the intentional submission of false and/or inaccurate information may be used to disqualify the Applicant.

Unintentional errors, or errors that do not secure an advantage with regard to eligibility for admission, Priority status and/or Preferences, or amount of rent, will not be used as a basis for Applicant rejection.

### 4. The BHA will accept verification of screening information in the following order of preference:

- **Written Third Party Verification** – Written verification by a third party is the most acceptable form of verification.
- **Oral Third Party Verification** - Staff documented verification from a third party by telephone will be accepted where written verification is impractical, or the third party is unresponsive to BHA's written requests within ten (10) business days of mailing. Staff shall utilize the same form that would have been mailed to the third party. All the information required by the written verification form should be requested during the telephone contact. BHA staff will complete the form on the basis of such information. The contact person, date and time of conversation will be noted and the BHA staff person who made the telephone call will sign the form.
- **Verification by Applicant-supplied documents** – BHA will review documents submitted by the Applicant household when:  
(a) the information requested does not require third-party verification (for example rent receipts, canceled checks for rental payments, lease agreements and monthly utility bills) or (b) third-party fax or telephone verification is impossible. BHA may copy documents into the Applicant's file. Applicant supplied documents must be dated within sixty (60) days of receipt by the BHA.

- **Verification by Applicant certification** – With the approval from the Director and/or Assistant Director of the Occupancy Department, the BHA may choose to accept an affidavit from an Applicant regarding housing and employment history only when verification by a third party written or oral, and verification by documents is impossible to obtain.

**5. General procedures applicable to screening information are as follows:**

1. **Information subject to change** – Verifications are valid for ninety (90) days from the date received by the BHA. Information may be updated by telephone or fax for an additional thirty (30) days. After one hundred and twenty (120) days, the Applicant must obtain new verification documentation.
2. **Information not subject to change** – BHA will verify this information (e.g. verification of age or place of birth) only once during the screening process.
3. Each Applicant folder will include a checklist documenting verification efforts and tracking progress. The checklist will record the forms sent, date sent and the date the information is received by the BHA by mail, telephone or fax. Upon receipt of all requested verifications, the BHA staff person will sign the checklist and certify as to the completeness of the file.
4. Each BHA verification form sent to a third party will include the following: (a) an explanation of why the information is being requested; and (b) authorization from the Applicant to release the information on the BHA's **General Release Form** or **Income Verification Form**.

BHA will send third party verifications directly to the third party, not through Applicants. The third party verifications shall include a self-addressed stamped envelope for return to BHA. Verifications may also be faxed to a third party with a request for a return fax to the BHA. BHA's fax transmission to the third party shall be confirmed by printed receipt at the time of transmission or verified by telephone. Annotation or copy of the receipt shall be kept in the Applicant's file.

**5.3.2 Interviews and Verification Process**

As Applicant households approach the top of the BHA waiting list, they shall be scheduled for a personal interview with a BHA staff member trained to conduct interviews. Applicants at this point will not be allowed to change any of the developments/AMPs of choice. During the

personal interview the BHA will require Applicants to identify and provide documentation of “Good Cause” or Reasonable Accommodation that may affect their ability to accept an offered apartment due to special circumstances that may be applicable for their Household. (See Section 6.2.5 for further detail).

### 1. Verification of Household Composition

The following information must be obtained for all Household Members as applicable:

**A) Photo identification for Head of Household and Co-Head of Household** (One of the following forms of photo identification (for the Head and Co-Head of Household only) :

1. Driver’s license
2. Registry of Motor Vehicles picture ID
3. Passport
4. Student or employer ID
5. Other photo ID acceptable to BHA

**B) Proof of Birth – all Household Members** (One of the following proof of birth documents in order of preferred documentation):

1. Original copies of Birth Certificates
2. Passports
3. Original Baptismal Records
4. Original INS documents for eligible Non-Citizens( Federal only)
5. Other records as deemed appropriate(Marriage certificate, DDG214, Statement from Social Security Administration)

\*\*\* A letter documenting pregnancy as well as anticipated date of birth will be required for all unborn children listed on application.

**C) Proof of Relationships** - applies to minor children or the care of adults in guardianship situations. The following types of documents will be accepted:

1. Birth certificates
2. Court records of adoption
3. Court records of guardianship
4. Other written and sworn documentation under pains and penalty for perjury such as a written designation from the minor child’s parent.

#### **D) Social Security Numbers**

Federal regulations require that the social security numbers of all Applicant household members must be provided and verified except for those individuals who do not contend to have eligible immigration status. One of the following types of documents may be accepted:

1. Original of the Applicant household members social security card (BHA will make a copy for the file)
2. Original Report from the Social Security Administration documenting the unavailability/non-assignment of a social security number for that Applicant household member (BHA will make a copy for the file)
3. A written statement from the Social Security Administration documenting the social security number assigned for that Applicant household member.

#### **E) Status as a full time student (for Applicant household members over 17 years of age)**

Statement on the letterhead of an accredited educational institution stating that the Applicant household member is enrolled as a full-time student at that institution.

#### **F) Status as an Elderly Household**

Proof of Birth (see above) of Head and/or Co-Head of Household indicating an age of at least sixty years (State aided housing) or 62 years (Federally assisted housing)

#### **G) Status as a Disabled Household or Disabled Person**

1. In general, the BHA shall not inquire as to the existence or nature of a disability, or ask for information related to a disability or the medical history of residents, Applicants, or their Household Members. However, when a Resident, Applicant or Household Member requests a Reasonable Accommodation or Reasonable Structural Modification on account of a disability, the BHA may require documentation as to the disability and the needs to be served by an accommodation or modification. A Resident, Applicant or Household Member may choose not to disclose the fact of a disability and request an accommodation or modification; however, in this case, the BHA is not obligated to provide any such accommodation or modification.

2. If the Head or Co-Head of Household is claiming status as a Disabled Person, in order to qualify as a Disabled Household for purposes of Preference status or other reasons, such as

eligibility for Elderly & Disabled Housing, proof that the individual is a Disabled Person must be obtained. In addition, certain benefits may accrue to a household with a Disabled Person, such as the need to move into a specially adapted apartment. Verification of the status of the household member as a Disabled Person must also be obtained in this case.

3. For purposes of determining whether or not the Disabled Applicant requires a particular location or an Apartment with special features, BHA Staff may inquire as to the effect of the Disability on the Applicant or Applicant household member

4. The following documentation will be accepted for purposes of verifying the status of a household member as a Disabled Person:

1. The household member's sole source of income is SSI benefits, SSDI benefits, or disability retirement income (see income verification below);
2. A certification from a Qualified Health Care Provider verifying that the household member meets the criteria of a Disabled Person for the state and federal housing programs. (See Definitions for eligibility of Disabled Persons)

#### **H) U.S. Citizenship or Eligible Non-Citizenship Status (Federal Program ONLY)**

Each Household Member's status as a U.S. citizen, Eligible Non-Citizen or ineligible Non-Citizen must be verified except as indicated below. Determination of eligibility or partial eligibility for public housing benefits (federal program only) is affected by citizen or Non-Citizen status. At least one household member must be a citizen or Eligible Non-Citizen.

**What Evidence Will Be Required?** Evidence of U.S. Citizenship or "Eligible Immigration Status" will be required to be submitted for all household members regardless of their age, except as indicated below:

**If you are a U.S. Citizen:**

A signed Declaration of U.S. Citizenship -

**If you are a Non-Citizen who is age 62 or over:**

A signed Declaration of "Eligible Immigration Status." You will also need to provide a "proof of age" document.

**If you choose not to contend that you are a citizen or have eligible immigration status:**

A completed form electing not to contend to such status

**If you are a Non-Citizen who does not fall into one of the categories above:**

A signed Declaration of "Eligible Immigration Status," a signed Verification Consent Form **and** you must provide **the original** of one of the documents listed below:

1. Registered Alien Card (U.S. Immigration and Naturalization Service (INS) I-551 Form)

2. Arrival /Departure Record (U.S. Immigration and Naturalization Service (INS) I-94 Form); with one of the following annotations:

- (a) "Admitted as Refugee pursuant to Section 207";
- (b) "Section 208" or "Asylum";
- (c) "Section 243(h)" or "Deportation stayed by Attorney General";
- (d) "Paroled pursuant to Section 2112(d)(5) of the INAA";

3. Arrival /Departure Record (U.S. Immigration and Naturalization Service (INS) I-94 Form) not annotated, accompanied by one of the following documents:

- (a) A final court decision granting asylum to which no appeal was taken.
- (b) A letter from a U.S. Immigration and Naturalization Service (INS) Asylum Officer granting asylum (if application was filed on or after October 1, 1990) or from a U.S. Immigration and Naturalization Service (INS) District Director (if application filed before October 1, 1990).
- (c) A court decision granting the withholding of deportation.
- (d) A letter from a U.S. Immigration and Naturalization Service (INS) Asylum Officer granting withholding of deportation ( if application was filed on or after October 1, 1990).

4. Temporary Resident Card (U.S. Immigration and Naturalization Service (INS) I-688 Form or also known/replaced by the I-766 Form which must be annotated with the notation either: "Section 245A" or "Section 210")

5. Employment Authorization Card (U.S. Immigration and Naturalization Service (INS) Employment Authorization Card I-688B Form or also known/replaced by the I-766 Form which must be annotated with the notation either: "Provision of Law 274a.12(11)" or "Provision of Law 274a.12")

6. Receipt From the U.S. Immigration and Naturalization Service (INS) Indicating Application for Issuance of a Replacement Document

***For Applicants for Federal Program only, eligible Immigration Status for all Non-Citizen household members must be verified through the U.S. Department of Immigration and Naturalization Service Unless There is an Election Not to Contend or all household members are 62 years of age or older and have submitted proof of age and a declaration of eligible non-citizen status***

**I) Verification of Income, Assets, Income Deductions and Income Exclusions**

During the screening process, verification must be provided for all income, assets, income deductions and income exclusions pertaining to an Applicant household as outlined in this procedure. These items are verified for purposes of determination of income eligibility and determination of monthly rent.

Income, assets, deductions and exclusions shall be verified at Screening and the initial monthly rent shall be calculated by Occupancy Department Staff. The monthly rent is determined by adding together gross income from all sources for all Household Members, including income from assets, and reducing that income by allowable deductions and income exclusions, in accordance with Federal (HUD) and State (DHCD) laws and regulations . In Federal developments/AMPs, residents have the choice of paying either an Income Based Rent or a Flat Rent. (See 9.2)

In the event that the information used to calculate rent is more than ninety (90) days old at the time of signing the lease, the information shall be updated and re-verified and the rent recalculated by the Housing Manager.

Projections of annual income shall be based on the best available information, with due consideration to the past year's income of all household members, current income rate and effective date; and shall include projections for each income recipient in the household.

In order to ensure that all sources of income, assets, deductions and exclusions are considered in calculating annual income, Occupancy Staff shall interview all applicants during the

screening process using the Occupancy Department's Income Questionnaire.

In addition, in the case that the documentation provided by the applicant is not complete or is otherwise doubtful, the BHA may require the Household Member to sign a release allowing the BHA to obtain the information directly from the third party.

The following forms of verification of income, deductions, exclusions and assets will be accepted.

#### **1. Income from Employment**

- A statement from the Employer stating the gross wages of the employee, including history or anticipated amounts of overtime or bonus to be earned by the employee, or
- Pay stubs showing gross income for each pay period and all deductions taken for four consecutive weeks;

The income of workers employed on an irregular basis will be estimated based on the verification of the best information available, with due consideration to earning ability and work history.

#### **2. Income from governmental agencies**

A statement from the appropriate agency (Social Security, Department of Transitional Assistance, Employment Security, etc), stating the amount of annual or monthly income provided, including the gross amount and any deductions taken.

#### **3. Income from Retirement Accounts**

A statement from the source stating the amount of annual or monthly income provided, including the gross amount and any deductions taken

#### **4. Income from the operation of a business or profession**

1. Most recent audited financial statement of income and loss;
2. Most recent tax return showing income and loss from the operation of a business or profession.

#### **5. Zero Income**

When an adult Applicant household member reports zero income, the BHA will require the Applicant household to complete a budget or statement of financial responsibility. An investigation shall include the information on the Applicant Background Check and Eviction Reports that



are ordered on the Applicant household members. If the Applicant household member owns a motor vehicle, a telephone, or has other evidence of some form of expenditures reflecting income, the Applicant household member will be asked to explain the source of funds supporting such cash expenditures

In addition, the Applicant household member will be required to sign releases allowing the BHA to obtain verification of no-income from sources such as Dept. of Transitional Assistance, Internal Revenue Service, Department of Revenue, Social Security Administration, Employment Security and Veterans Affairs.

**6. Child Support, alimony, regular gifts and gambling proceeds**

1. A statement from the individual, business or agency providing the income and the frequency and amount of income provided; and/or
2. Signed release form allowing the BHA to obtain information from the State Division of Child Support.

**7. Income from Assets**

Income from assets shall be based on either the actual income received or imputed income based upon current passbook savings rates in accordance with federal and state regulations as applicable. For instance, actual interest received shall be used for interest bearing bank accounts, money market funds, rented property, etc. Imputed income will be used for real property which is not rented, jewelry, coin collections, works of art and other non-income bearing assets. If the value of the asset is more than \$5,000 the higher of imputed income or actual income received will be used.

Common household items such as furniture, clothing, and vehicles used for day-to-day transportation shall not be considered assets for the purposes of calculating income.

Types of verification which will be accepted for purposes of determining the value and income received from an asset include:

1. Three most recent statements for statement accounts, including bank accounts, money market funds, mutual funds, or other assets for which regular statements are issued;
2. Original passbook for passbook savings accounts;

3. Most recent (no older than one year) appraised value of real property owned provided it's reflective of fair market value, in the form of property tax bill or appraisal from a Real Estate Appraiser; and
4. Appraised valuations of any non-essential personal assets such as jewelry, coin collections, antiques or classic cars.

#### **8. Verification of childcare expenses or care of disabled household member deductions**

Statement from the provider of childcare or care of Disabled Person who is a household member of the amount of payment made on a periodic basis by the Applicant household.

#### **9. Verification of Medical Deductions**

Applicants must submit evidence of the following medical expenses for all household members paid within the last twelve months:

1. Statement of the cost of medical insurance and the frequency of cost from the provider or in the form of deductions indicated on pay stubs or Social Security statements accompanied by proof of payment;
2. Receipts for payment of prescriptions and other health care needs. Non-prescription health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items (including non-prescription medications, wheelchairs or other disability related aids, etc);
3. Signed printout of prescription costs from a pharmacy accompanied by proof of payment
4. Medical or dental bills for a household member paid by a household member.
5. Un-reimbursed reasonable attendant care and auxiliary apparatus expenses.

#### **J) Verification of Income Exclusions**

Various sources of income are excluded by the BHA in accordance with Federal and State regulations. A list of currently allowable income exclusions will be given to the Applicant at the beginning of the Final Screening Process in preparation of the determination of rent. In each case where the Applicant claims that income should be excluded a determination must be made as to whether or not the information provided needs to be verified. For instance, if an Applicant acknowledges receipt of a one-time gift of cash, that income does not need to be verified prior to its exclusion. On the other hand, if the Applicant claims to have a welfare-to-work income exclusion, that exclusion must be verified with the appropriate agencies.

#### **K) Verification of need for particular apartment features**

At the time of Preliminary Application, or during the Screening Process, all Applicants will be asked to complete an Apartment Requirements Questionnaire. This questionnaire will identify any special features that the applicant may require, and whether or not they consider themselves to be, or are, a Disabled Person. Such features will include first floor apartments, inability to live in a townhouse unit, need for accessible features such as wheelchair accessibility, and other factors.

Any special apartment requirements identified by the Applicant as needed for his/her Household shall be verified using the process included in this Policy for Good Cause and/or Reasonable Accommodation verifications, Disability status and in compliance with all applicable laws and regulations.

#### **L) Verification of Applicants Ability to Live in Accordance with the Lease**

During the screening process, an Applicant shall be required to verify that all household members are capable of living in compliance with the BHA lease. A number of verification sources will be used to determine this as listed below. Applicants must provide to the BHA required information, including at least the last three years of housing history. These questions are asked on the **Final Application Form** and must be as fully and completely answered. Refusal to answer questions or inability to respond to requests for information may lead to a determination of ineligibility or withdrawal of an Application for Applicant's failure to respond.

The BHA will not offer housing to an Applicant who can provide no documentation of ability of all household members to comply with the essential obligations of the Lease.

**M) Applicant Rent Payment History**

The following sources may be used to verify whether or not the Applicant is likely to pay rent in a timely manner:

1. Landlord references (preferred method);
2. Bank references in the case of home-owners paying mortgages;
3. Tax and utility payment records in the case of a homeowner not paying a mortgage;
4. Credit Bureau Reports;
5. Other records of payment histories in the case of an Applicant who has neither rented before as tenant of record or owned a home, including records of payment on credit cards or other independently verifiable regular or periodic payments.

**N) Applicant History of Care of Property**

1. Landlord references (preferred method);
2. Statement from a Qualified Health Care Provider, other social services worker or other independent individual who has been in the home of the Applicant and has knowledge of the Applicant's care of property within his/her care;
3. Neighbor references in the case of an Applicant who is or was not a tenant of record and for whom a landlord reference can not be obtained;
4. Statement from a shelter worker, a worker in residential care settings, or a worker from other alternative housing institutions who has knowledge of the Applicant's care of property within his/her care.

**O) Applicant History of Not Disturbing neighbors or otherwise violating lease conditions, including violating the civil rights of other residents, their guests, neighbors, and employees**

1. Landlord references;
2. Neighbor References in the case of an Applicant who is or was not a tenant of record and a landlord reference cannot be obtained;

3. Statement from shelter workers, workers in Residential Care settings, or workers from other alternative housing institutions who can testify to the Applicant's record of living in such a way as not to interfere with the peaceful enjoyment of neighbors;
4. Other references from independent individuals or agencies, which can testify to the Applicant's record of living in such a way as not to interfere with the peaceful enjoyment of neighbors.

#### **P) Criminal History**

Each adult Applicant or adult household member 17 years of age or older is required to sign a release to allow the BHA to obtain criminal offender record information (CORI). Each Applicant household member 14-16 years of age shall be required to sign a release to allow the BHA to obtain youthful offender record information from the Massachusetts Criminal History Systems Board, or other youthful offender record information as it may lawfully receive from other jurisdictions. Discussion of the review and determination based upon the information that is received is included in Section 5.3.5 (Applicant Screening Criteria).

#### **Q) Verification of Mitigating Circumstances**

In the event that negative information about any household member is found in the process of reviewing the above verifications during the screening process, the Applicant may request that Mitigating Circumstances including the history of incidents of sexual assault, domestic or dating violence, sexual assault or stalking be considered in making a determination whether the Applicant is Qualified for housing. For example, the Applicant is a victim of domestic or dating violence or sexual assault or stalking and has had certain unusual expenses that prevented the Applicant from paying rent in a timely fashion. Mitigating Circumstances claimed by an Applicant must be verified and be related to the negative impact of an unsuitable housing history or unsuitable behavior and which may overcome or outweigh negative information gathered in the screening process about an Applicant. In addition to the Mitigating Circumstances verification, the Applicant may submit when applicable the HUD Domestic Violence self-certification form which must identify the alleged abuser and the his/her relationship to the Applicant.

### 5.3.3 The Screening Policy

Information to be considered in completing Applicant screening shall be reasonably related to assessing the conduct of the Applicant and other household members listed on the application, in present and/or prior housing. The BHA shall reject an Applicant if it finds any of the following conditions are present and there is reason to believe the future behavior of the Applicant or Applicant household members will exhibit the same behavior, unless there are acceptable Mitigating Circumstances as provided in Section 5.3.6 paragraph 2 below. The history of the Applicant household's conduct must demonstrate that the Applicant household can reasonably be expected not to:

1. Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises or to adversely affect their health, safety, or welfare or the security of their property;
2. Violate the civil rights of any person, while on BHA property, in accordance with the BHA's Zero Tolerance policy.
3. Cause damage to the property or fail to pay rent in full and on time;
4. Violate the terms and conditions of the BHA lease;
5. Require services from BHA staff that would alter the fundamental nature of the BHA's program.
6. Illegally use, possess or distribute a controlled substance; or
7. Give the BHA reasonable cause to believe that the illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.

The Applicant household's ability and willingness to comply with the above requirements in current and former housing will be checked and documented. BHA may review the Credit Bureau Report of the household member(s) who will be responsible for paying rent in order to determine Applicant's credit history in meeting rent and housing-related utility charges, if any, and to verify Applicant's prior housing history. The Applicant's prior credit history in meeting non-housing-related financial obligations will not be a basis for

determining an Applicant ineligible except in cases where the Applicant has no prior rent payment or housing history.

Relevant information respecting habits or practices may also be considered including, but not limited to:

1. An Applicant household's past and present performance in meeting financial obligations, especially in rent; provided that if the Applicant paid at least fifty percent of his/her household's monthly income for rent each month during a tenancy but was unable to pay the full rent, an eviction for non-payment of the balance of the rent shall not disqualify such individual from BHA housing.
2. The most recent three-year housing history, and whether there is a record of disturbance of neighbors, destruction of property, or housekeeping habits at present or prior residences which, if repeated, may adversely affect the health, safety, or welfare of other residents or neighbors or BHA employees or the security of their property during such time.
3. Involvement in criminal activity on the part of any Applicant household member in a crime of physical violence to persons or property or other criminal activity, which if repeated, would threaten the health, welfare and safety or the right to quiet enjoyment, of other BHA tenants, or other criminal activity involving the illegal use of a controlled substance, or if the BHA determines that it has reasonable cause to believe that the illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. (The BHA will utilize the Massachusetts Criminal History Systems Board's Criminal Offender Records Information or "CORI" data as a reference.)
4. A record of eviction from housing or termination from residential programs.
5. An Applicant household's ability and willingness to comply with the terms of the BHA lease. Applicant households must be able to demonstrate the ability and willingness to comply with the terms of the BHA's lease.
6. Information related to an Applicant's knowing misrepresentation of any information related to Priority and/or Preference eligibility, household composition, Household income and/or assets, rent or

use of the apartment. Failure to provide consent for verification of information can be considered grounds for ineligibility.

7. Information related to an Applicant's or a member of an Applicant's household treatment by a substance abuse treatment facility. The BHA requires any Applicant or member of Applicant's household to sign a consent form authorizing inquiry to a substance abuse treatment facility where the BHA :

- Receives CORI information that indicates evidence of a prior arrest or conviction for criminal activity which would be a basis for denial due to reasonably current illegal drug use, OR
- Receives information from records from a prior tenancy of the Applicant or household member that demonstrate he or she was:
  - Engaged in the destruction of property;
  - Engaged in violent activity against another person;
  - Interfered with the right to peaceful enjoyment of the premises by another tenant.

#### 8. Home Visits

Home visits at the current dwelling of the Applicant household shall be required of Applicants in the circumstances listed below. Housekeeping inspections are part of the home visit.

- *Criteria for home visits:* BHA will make a Home Visit when the following conditions exist:
  - One bad housekeeping reference from the present or a prior landlord or housing provider, including residential programs and shelters; or
  - Information contained in a reference or verification form that demonstrates a marked difference among references of the Applicant as to housekeeping; or
  - The Applicant is unable to provide documentation from an independent source to support a positive assessment of housekeeping; or



- Evidence of poor personal hygiene habits, as observed by BHA staff during a personal interview or other visit to BHA offices and/or during a home visit, such as would affect the livability of a BHA apartment occupied by the Applicant Household, a neighbor's apartment, or other premises or such as not to be conducive to decent, safe, and sanitary conditions as required by BHA's lease.
- Housekeeping observations shall include, but are not limited to:
  - Conditions in the living room, kitchen, bathroom, bedrooms and other spaces in the unit.
  - Conditions of entrance-ways, stairways, halls, and yard if under the control of the Applicant
  - Cleanliness in each room, for example, dirt, grease, grime or infestation
  - Clutter that might create a health or safety problem
  - General care of furniture, appliances, fixtures, windows, doors and cabinets
- Other conditions which would constitute a violation of BHA lease terms, such as:
  - Evidence of destruction of property;
  - Evidence of criminal activity, for example, presence of drugs or drug paraphernalia; dangerous weapons; or
  - Conditions inconsistent with application information, i.e., evidence of unauthorized occupants.
- All Applicants shall have at least two calendar days' advance written notice of Home Visits.
- The purpose of the Home Visit is to obtain information to be used in determining the Applicant's compliance with the screening criteria described in this chapter.

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### 5.3.4 The Final Application Package and Screening Requirements

#### 1. The Final Application

Various questions relating to the Applicant household's eligibility, Priority status and/or Preferences and tenant history will be asked as part of the Final Application. Included will be the Social Security Numbers (SSNs) of all household members (or certification that an Application for a SSN is submitted or that no SSN has been assigned)- the federal regulations require that the social security numbers of all Applicant household members must be provided and verified except for those individuals who do not contend to have eligible immigration status- and the name, address and telephone numbers of current and former landlords or current and former housing providers. Failure to answer the questions and provide the requested information will result in withdrawal of the Application. BHA staff will be available to guide Applicants, as needed, in understanding the Application process and completing BHA forms. For Federal Programs, verification of U.S. Citizenship or Eligible Non-Citizen status for each household member will also be required at this time.

All sections of the Final Application must be completed by the Applicant and must be signed by the Household Head and Co-Head, where appropriate.

#### 2. Applicant Releases of Information and other required documents

All adult household members will be required to execute the following releases of information or sign information forms as appropriate:

- The single standard **Release of Information** form that is to be signed by the Applicant and each adult household member;
- Non Citizen Rule (Federal Housing only) – Verification of Consent for all household members.
- One copy of the **CORI Release of Information** form advising the household member that CORI will be used; and
- The **Privacy Act Notice**.

Refusal to sign these forms or other documents required to process the Application or conduct screening will result in the withdrawal of the Application.

The BHA has discretion to determine what constitutes adequate and credible documentation. If staff has doubts about the veracity or reliability of information received, they may examine alternative methods of verification with the Applicant or third parties until they are satisfied that the documentation is reliable or that reliable documentation is unattainable. The BHA will not offer housing to an Applicant household who has failed to provide requested documentation or to identify sources who can provide documentation which demonstrates the ability of the household to comply with the essential obligations of the Lease or meet other eligibility requirements.

### 5.3.5 Applicant Screening Criteria

Applicants including all household members for public housing will be screened. The screening criteria in this Admission and Occupancy Policy, are based on those set forth in the HUD and DHCD Regulations (24 CFR Part 960.205 and 760 CMR 5.00 respectively), and require an assessment of the conduct of each Applicant household member age fourteen (14) or older with respect to all the factors listed below:

1. **An Applicant household's performance in meeting financial obligations, especially rent, as required by terms of the BHA Lease**

**A. Primary indicators for meeting financial obligations, especially rent are:**

No more than one (1) rent delinquency in any 12 month tenancy period under review except in cases of acceptable Mitigating Circumstances including incidents of documented domestic or dating violence or sexual assault or stalking which prevented the applicant from meeting his/her financial obligations; payment of rent in full and on time for the period under review, payment of gas, electric, and heating fuel bills in full and on time (no shut-offs or termination of service). Prompt payment of repairs for damage caused by the Applicant, household members and/or guests. Compliance with repayment plans (if any) will also be considered.

**B. Secondary indicators for meeting financial obligations, especially rent. One or more of the**

following secondary indicators may demonstrate acceptable history under this criterion:

1. Applicants may present evidence of a recovery from a delinquency, such as sweat equity to pay off a debt and meeting the requirements of payment contracts for rent in arrears. All such evidence must be adequately verified;
2. Self-employment work histories that show positive performance and habits with respect to the monthly payment of bills or creditors (as verified by vendors or creditors);
3. Record of payment of consumer loans, credit cards, or lay-a-way accounts (monthly payment in full and on time). Evidence of recovery from a delinquency shall be deemed a Mitigating Circumstance;
4. Record of monthly payment for utilities in full and on time (other than gas or electric) such as water and sewer, telephone. Evidence of recovery from a utility payment delinquency shall be deemed a Mitigating Circumstance;
5. Record of cable TV payments (monthly payment in full and on time). Evidence of recovery from a delinquency shall be deemed a Mitigating Circumstance;
6. Record of making any kind of regular payments (i.e., monthly payment of a storage bill for household possessions);
7. No liens, defaults or other types of poor payment history;
8. Record of regular on time payments for alimony and/or child support;
9. Ability to secure a vendor payment agreement with payments made directly to the BHA for a period of not less than 24 months or shorter period if agreed to by BHA;

**C. Acceptable documentation in support of an Applicant's history of meeting financial obligations includes the following:**

1. Credit Bureau Applicant Background Check and Eviction Report information reflecting no negative indicators relative to the ability to pay rent or similar shelter costs. The information on the Credit Bureau report must be consistent with other documentation or statements made by the Applicant;
2. Completed Landlord Verification Form for all prior landlords for the past three years reflects no more than one (1) delinquency in any 12-month tenancy period in payment of rent;
3. Account records (computer printouts) provided by utility companies for any period of tenancy under review reflecting no delinquencies in payment for utilities;
4. Where a landlord verification is not available, a completed Third Party Verification form: **Ability to Comply with Lease Terms** from a knowledgeable third party source reflecting an ability to meet Lease terms, including the obligation to pay rent;
5. No record of an eviction for non-payment, or failure to pay for damages or other charges due a landlord (If the Applicant has a record of eviction for nonpayment, the applicant must document that s/he was paying at least fifty percent of the total household income towards rent)
6. Other documentation accepted as reliable and credible by the BHA, which is sufficient to support a determination that the Applicant will pay rent and other charges as permitted by the BHA lease on time.

**D. Method of Verifying an Applicant's history of meeting financial obligations:**

1. If the Applicant household has or has no landlord references (e.g. because of living with friends or

family or in an institution or shelter) the BHA shall order a Credit Bureau Report Applicant Background Check and Eviction Report on all adult members of the Applicant household. BHA will conduct a careful examination of the information contained in the Credit Bureau Report. The report will be checked to determine if there are inconsistencies in the Applicant's housing history as reported to BHA on the Final Application form or other documents or a history of evictions filed against the Applicant. BHA staff will consider negative credit information with respect to the Applicant's rent and utility payment history. In cases where the Applicant has no prior housing payment history, the BHA will utilize the payment history for other consumer credit obligations.

If BHA rejects an Applicant in whole or in part because of a poor credit history reflected in a Credit Bureau Report, BHA will advise the Applicant in writing of:

- his/her right to examine the Credit Bureau Report; and
- his/her right under applicable law to dispute and correct inaccurate credit information.

Should the Applicant obtain correction of the report, BHA will reconsider the Application and if the Applicant is not determined ineligible again, s/he will be reinstated to each previously selected waiting list using the original date and time of Application and any applicable Priority and/or Preferences.

BHA will consider a poor credit history in light of any Mitigating Circumstances that can be documented by the Applicant (for example loss of employment, illness, medical problems, or incidents of domestic or dating violence or sexual assault or stalking that limited the household's financial resources). BHA will also consider whether non-payment or poor payment of rent and other charges is likely to reoccur once the Applicant obtains housing where the rent is based on a percentage of the household income.

2. If an Applicant has filed bankruptcy and this is reflected in the Credit Bureau Report, BHA will determine if the bankruptcy included debts that were related to tenancy and shelter costs and which would be a basis for rejecting the Applicant if they had not been discharged. Applicants will not be rejected solely on the basis of the bankruptcy filing.
3. Performance in meeting financial obligations will be checked by contacting current and prior landlords, (and utility suppliers if applicable). The BHA **Landlord Verification Form** will be used to gather information about present and past performance in meeting rental obligations. The form will be mailed to the landlords identified by the Applicant or otherwise, along with a release of information form signed by the Applicant.

Where any adult member of the Applicant household has had past responsibility for utility payments, the BHA may consider account records provided by utility companies (excluding those providing telephone and cable TV service).

In lieu of the form referenced above, BHA will accept credible evidence of rent payment or utility payments in the form of canceled rent checks, or money orders for any period of tenancy under review. Situations may arise where an adult member of an Applicant household has not paid rent but has responsibility for utility payments. Their payment of utilities can be an indicator of ability to pay a shelter-related cost.

4. Information from landlords of any adult Applicant household member may be discounted if it appears that the landlord may have misrepresented information about the Applicant Household. Contacts with all prior landlords for the past three-(3) years will be pursued by BHA staff.
5. BHA will examine tenancy history over a longer period of time when the information obtained from the three-(3) year period is incomplete or conflicting. When examining an Applicant's housing history BHA will focus on any periods when any adult Applicant household member made

or should have sustained periodic payments in support of housing-related costs.

6. If a current or previous landlord is a relative of the Applicant household, the BHA will give more weight to references provided by unrelated landlords.
7. If verifications of timely rental payments (and utility payments, where applicable) are received from landlords and utility suppliers, no further documentation of past performance of meeting financial obligations, especially rent, need be collected.
8. Payment of funds owed to the BHA or other subsidized housing provider will be considered as some evidence that an Applicant Household is willing to meet financial obligations.
9. The BHA differentiates between Applicants who are/were tenants named in a Lease or tenants at will whose landlord BHA cannot reach and Applicants who have lived in a dwelling without the landlord's knowledge, thus making it impossible for the landlord to verify the Applicant's residency or ability to meet financial obligations although the landlord may verify residency information, including rent-paying ability, of the tenant occupying the dwelling.

The BHA will attempt to verify that the landlord of a prior dwelling knows the Applicant. The BHA may accept other credible verification that can establish the address and occupancy status for the period under review. Failure to establish the Applicant's claimed residency in a dwelling will constitute cause for the BHA to withdraw the Applicant's Application.

10. In the absence of credible landlord references with respect to past performance of meeting Lease or tenancy obligations, the BHA may contact someone with knowledge of the Applicant household's or members' behavior and abilities to



complete the BHA form, **Third Party Verification: Ability to Comply with Lease Terms.**

If the current housing provider is a relative, additional information on the Applicant's ability to comply with the Lease terms may be collected by the BHA.

11. If BHA personnel have questions about information received, they may contact the source of the information in order to ask such questions.
2. **A record of disturbance of neighbors, destruction of property, or housekeeping habits at present or prior residences which may adversely affect the health, safety or welfare of other residents or staff, or cause damage to the Apartment or development/AMP on the part of any household member, as prohibited by terms of the BHA Lease**
    - A. **Primary indicators that the Applicant household will not cause disturbances, destruction of property, damage or will not have unacceptable housekeeping habits are:**
      1. No record of activity or behavior that would disturb other residents' or neighbors' peaceful enjoyment of their accommodations; no record of activity or behavior that resulted in damage to an Apartment or residential facility of any kind including grounds or common areas associated with such Apartment or facility; no record of activity or behavior that results in damage to the real or personal property of neighbors;
      2. No record of activity or behavior (including housekeeping) that resulted in safety violations, unsanitary or unhealthy conditions in an Apartment or dwelling or the common areas associated with such Apartment or dwelling;
      3. Evidence that the Applicant reported maintenance problems to the landlord in a timely manner is a positive indicator.
      4. The Authority will consider Mitigating Circumstances such as incidents due to a disability, sexual assault, domestic violence, dating violence, sexual assault, or stalking which are related to a history of unsanitary, unhealthy, and/or poor maintenance conditions, or destruction of property in the unit.

**B. Secondary indicators that the Applicant household will not cause disturbances, destruction of property, damage, or will not have unacceptable housekeeping habits are:**

One or more of the secondary indicators may demonstrate acceptable history under the following criteria:

1. Proper care of one's room or space (especially for a person living with someone else or in a shelter or group home);
2. Proper maintenance of other physical space (for example a work space)
3. Use of chore service or other assistance in caring properly for an Apartment or living area;
4. The presence of a Personal Care Attendant or Live-in Aide who will assist in the proper care of the dwelling.

In attempting to determine if the Applicant household will respect the rights of others, the BHA may also consider:

5. treatment of others with whom the Applicant household lives;
6. treatment of BHA staff with whom the Applicant household comes in contact;
7. treatment of administrators, staff or other participants in programs in which the Applicant household is or has been a participant;
8. recent school and employment relationships.

**C. Acceptable documentation that an Applicant and/or household member will not cause disturbances, destruction of property, damages or will not have unacceptable housekeeping habits includes:**

1. Credit Bureau Applicant Background Check and Eviction Report reflecting the absence of eviction proceeding for such activity or behavior.

2. Completed Landlord Verification Form for all previous tenancies reflecting the absence of such activity or behavior and reflecting the ability to care for a dwelling and to comply with essential Lease terms;
3. If no landlord verification is possible, a completed **Third-Party Verification: Ability to Comply with Lease Terms** reflecting the absence of such activity or behavior and reflecting the ability to care for the dwelling and to comply with essential Lease terms;
4. Criminal Offender Record Information (**CORI**) reflecting no criminal offenses arising from physical or other abuse of persons or property, disturbances, destruction or damage to property or similar types of activities. Examples of criminal offenses that will be considered under this screening criterion include but are not limited to: threats or harassment, especially civil rights violations, domestic violence, including sexual assault, actual or threatened violence toward members of an Applicant's household or other individuals who are not household members, assaults, assaults and batteries, destruction of property, vandalism, situations where children, the elderly or disabled are neglected or abused, criminal conduct which may not in and of itself be considered violent but may lead to violence, reported or other evidence that may constitute a health or sanitation problem;
5. Where disqualifying behavior has occurred, evidence of Mitigating Circumstances shall include evidence that the Applicant household has ceased the behavior or activity and that the behavior and activity is unlikely to re-occur or the individual engaged in such behavior will not be part of the household composition. The evidence must be provided by a Qualified Health Care Provider or other individual qualified to provide such evidence;
6. Where disqualifying damage to property has occurred, evidence of Mitigating Circumstances would require a showing that the Applicant and/or household members ceased the behavior or activity resulting in the damage and that the behavior and activity is unlikely to re-occur or the individual engaged in such behavior will not be part of the household composition. An Applicant household member should show that s/he has paid for the damage or, if s/he didn't make such payment, establish a valid reason why payment for the damage was not made.

**D. How a Record of disturbance, destruction of property, damages, unsatisfactory or unacceptable housekeeping habits will be determined:**

1. Staff will check for current or past problems in the above areas with the current and former landlord(s) using the **BHA Landlord Verification Form**.

BHA staff shall utilize information from a Credit Bureau Report on the Applicant household.

2. BHA staff will routinely check the BHA's former Resident files to determine whether the Applicant and/or any household member have been residents of the BHA and have vacated in bad standing from the BHA either by threat of eviction, eviction, termination from its rental assistance programs or vacating without notice to the BHA. They also can order a check of court records to determine whether the Applicant or household members have been evicted from other housing.
3. In addition to checking with landlords, the BHA will make a Home Visit when the following conditions exist:
  - a. One unsatisfactory housekeeping reference from a present or prior landlord or housing provider, who may include a provider at a residential program or a shelter has been received;
  - b. Reference or verification forms show a marked difference or discrepancies in the housekeeping assessment of the Applicant;
  - c. The lack of adequate documentation from an independent source to support a positive assessment of housekeeping habits as required by this screening criteria;
  - d. Evidence of poor personal hygiene habits, observed by the Occupancy Specialist at the interview or by other BHA staff, which may be an indication that such habits could disturb the peaceful enjoyment or health of other BHA Residents or affect the habitability of an Apartment.

The home visit will be documented on the **BHA Home Visit Form**. Where the Applicant is living in a shelter, or other transient housing facilities, BHA staff may visit the

site and may confirm compliance with facility rules using the **Third Party Verification: Ability to Comply with Lease Terms.**

Applicants who fail a home visit will be determined Ineligible.

4. If the Applicant is not currently living under a lease with a landlord, or is living as a tenant at will, the housing provider will be asked to verify the Applicant's ability to comply with BHA Lease terms related to this screening criterion. Any area for which the Applicant has responsibility may be inspected.
  5. An Applicant's behavior toward BHA staff may be considered as a reflection of future behavior toward neighbors and/or BHA staff. Physical abuse or threats by an Applicant toward BHA staff will be noted in the file and included in the Screening evaluation. BHA staff will also note health or hygiene habits when such habits, in the opinion of the BHA staff, are serious enough to interfere with the ability of staff to conduct the interview and/or to disturb future neighbors. Where personal hygiene is a question, a final determination will be made based on available information which may include a home visit and which will be made after consultation with the Assistant Director of Occupancy for Screening.
- 3. A record of involvement in criminal activity on the part of any Applicant household member in crimes of physical violence to persons or property, crimes of fraud, prostitution or larceny and other criminal acts including the use and/or distribution of an illegal drug, or the illegal use (or pattern of illegal use) and distribution of any illegal drug, or abuse (or pattern of abuse) of alcohol which may interfere with the health, safety, or right to peaceful enjoyment of the premises by other Residents, as prohibited by the BHA Lease**
- A. Persons convicted of sexual offenses and subject to a lifetime sexual offender registration requirement are permanently prohibited from admission to Federally assisted developments/AMPs and they are only eligible for admission to State aided developments upon establishing acceptable Mitigating Circumstances. The BHA will conduct criminal history background checks sufficient to determine whether any household member is subject to such a registration requirement.

**B.** Persons that have been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of Federally-assisted housing are permanently prohibited from admission to Federally assisted developmentsAMPs and are only eligible for admission to State aided developments upon establishing acceptable Mitigating Circumstances.

**C. Examples of primary indicators that an Applicant and/or household member has not engaged in criminal activity:**

The absence of CORI or other evidence of criminal activity or behavior, excluding minor offenses

**D. Criminal activity/drug related criminal activity, other factors and considerations:**

- 1. Rehabilitation and Mitigating Circumstances –** With respect to potentially disqualifying criminal behavior, evidence of Mitigating Circumstances or rehabilitation must be substantial and commensurate with the seriousness of the crime.

BHA will consider the particular circumstances of the offense, the seriousness of the offense, the degree of damage, disruption and inconvenience caused by the offense, the passage of time since the offense, and whether the offender has been a good citizen and remained free of trouble since the offense.

BHA may consider evidence of the Applicant's or household member's behavior and reputation in the community both before and after the offense, and any other evidence indicating a likelihood that the offender will not engage in any future criminal activity.

**Example of rehabilitation:** If an Applicant or household member has an isolated incident of criminal activity which is neither violent nor drug related in the past, then clear and verifiable evidence of good citizenship sustained over a significant period of time may establish that the Applicant or household member has been rehabilitated.

**Example of Mitigating Circumstances:** If an Applicant or household member has an isolated conviction for larceny but establishes that he or she had an emergency need for money to pay for prescription drugs due to the illness of a household member, or if such behavior was a result of domestic or dating violence or sexual assault or stalking, such justification, if documented, may constitute Mitigating Circumstances sufficient to outweigh the offense.

2. In general, BHA will consider criminal activity to be outweighed solely by the passage of time when the criminal record has been or may be sealed pursuant to G.L. c. 276, §100A. A record may be sealed in most circumstances if the applicant or household member's last court appearance and court disposition records, including any period of incarceration or custody, occurred not less than 5 years before the application was filed in the case of a misdemeanor and not less than ten years before the application was filed in the case of a felony.
3. BHA will not admit a current user of illegal drugs. The Fair Housing Act explicitly states that current users of illegal drugs are not a protected class. BHA will not exclude former users of illegal drugs solely because of their former illegal drug use. Evidence of use within the past year (12 months) creates a rebuttable presumption that the individual is a current user.
4. The fact that an Applicant or household member may have been an illegal drug user in the past does not automatically excuse any disqualifying behavior that the Applicant or household member may have engaged in while an illegal drug user. If the BHA has cause to believe a former illegal drug user is still using illegal drugs, BHA has cause to reject the Applicant because of his/her current illegal drug use.
5. Documentation that a former illegal drug user is not currently using illegal drugs could include:
  - a. Verification from a Qualified Health Care Provider stating that the former illegal drug user has been or is currently in treatment, that there is a reasonable probability that the Applicant will be successful in refraining from use of illegal drugs, that the Applicant is complying with the requirements of the treatment program, and is not currently using an illegal drug;
  - b. Verification from a self-help program (for example, Narcotics Anonymous) stating that the former illegal drug user has been or is participating in their program, that there is a reasonable probability that the Applicant will be successful in refraining from use of illegal drugs, and is not currently using an illegal drug;

- c. Verification from a probation or parole officer stating that the former illegal drug user has met or is meeting the terms of probation or parole **and** that periodic screens have not revealed the presence of illegal drugs;
  - d. Voluntary drug testing. An Applicant or household member cannot be required to undergo drug testing as a condition of eligibility. However, if s/he chooses to be tested, testing shall meet the following requirements:
    - The drug test must be conducted at facilities that use the National Institute of Drug Abuse Guidelines (implementing EO 12564 and Pub. L. 100-71; these guidelines were published April 11, 1988 in the Federal Register);
    - The test must screen for illegal drugs only and the Applicant's use of prescription drugs that contain controlled substances must be taken into account; and
    - The BHA will pay for all costs associated with drug testing unless the costs are otherwise reimbursed.
6. If an Applicant or household member is currently in treatment for illegal drug use (as opposed to successfully completed treatment) or if an Applicant or household member has a history of drug treatment followed by further illegal drug use, the Applicant or household member must convincingly demonstrate (by providing additional verifiable information) in what way the current situation and claim of non-drug use is different from the previously unsuccessful efforts to stop using drugs. BHA must have an acceptable demonstration that the likelihood of a change in behavior is significantly greater than in the past.

In such cases, an Applicant or household member should successfully complete the current treatment program and maintain acceptable behavior in the community for a reasonable period established by the BHA.

7. Where an Applicant or household member has committed one or more crimes and establishes a direct causal link between the crimes and former illegal drug use, BHA will consider the evidence of rehabilitation from the illegal drug use. Rehabilitation does not



mean that the BHA will ignore the criminal behavior if other factors apart from illegal drug use may have had a causal effect on the criminal acts. A demonstration that a former illegal drug user is not a current user does not necessarily excuse crimes committed while s/he was using illegal drugs. S/he must reliably establish that drug use caused the crimes, that s/he is rehabilitated, **and** that there is a likelihood of no further criminal behavior.

8. **Alcohol Abuse and Screening** – Alcohol is a legal drug. Use of alcohol is not a basis for rejecting an Applicant. An Applicant or household member who is an alcoholic may qualify as a person with a disability under State and Federal anti-discrimination laws and be entitled to certain protections afforded to Disabled Persons.

It is BHA's policy that an Applicant or household member who is an alcoholic must meet the same screening criteria and standards as any other person. If an Applicant's (including household members) housing history demonstrates unacceptable behavior that is grounds for disqualification and there are inadequate Mitigating Circumstances, screening staff will have grounds to reject the Application, even if the behavior is claimed to be alcohol related. BHA's screening is directed at the Applicant's (and household members) behavior, not their condition.

**E. How criminal activity including drug related criminal activity or activity under the "One-Strike" Policy on the part of the Applicant or a household member will be checked:**

1. Possible involvement in criminal activity by the Applicant and/or any member of an Applicant's household that, if repeated by the Applicant or a household member as a Resident, would adversely affect the health, safety or welfare or physical security of property of other Residents, BHA staff or guests, will be checked by use of Criminal Offender Record Information (CORI) provided by the Massachusetts Criminal History Systems Board, criminal histories provided by other states/jurisdictions, Federal authorities, court records, and other evidence of criminal activity. In addition, the current or former landlord will be asked about criminal activity during the residence of any member of an Applicant household.
2. The BHA will use CORI or **youthful offender record information from the Massachusetts Criminal History Systems Board, or other youthful offender record information as it may lawfully receive from other jurisdictions** to check all adult household members and non-adult household members, 14 years of age or older, of the Applicant household for any evidence of:

- a. criminal convictions, both felonies and misdemeanors, regardless of when the convictions occurred;
  - b. any criminal charges which are currently pending before the courts of the Commonwealth or any jurisdiction, including the Federal courts.
3. Criminal record information shall be used in accordance with procedures established by the Massachusetts Department of Housing and Community Development (DHCD) memorandum dated December 11, 1991 as it may be amended, and 803 CMR 5.00 or equivalent requirements of any other jurisdiction.
  4. If the Criminal record information shows that a case is continued without a finding (CWOFF) or "placed on file" it cannot be used as a determination that the Applicant or household member, in fact, engaged in criminal activity without other independent evidence of the criminal activity charged. Independent evidence might include: police reports documenting criminal activity, statements from the arresting officer or other reliable information that the Applicant and/or a household member committed the crime charged.
  5. (a) If the Criminal record information indicates that an Applicant and/or household member has a record that would establish a basis for an Ineligibility finding, the Applicant will be notified of the negative information received, provided with an opportunity to review the information and to offer any information as a Mitigating Circumstance before a final determination of Ineligibility is made by the BHA.  
  
(b) If the Applicant believes that the Criminal record information is inaccurate, he/she must submit to BHA a written notice to this effect. The notice must be provided to BHA within the time specified in BHA's notice to the Applicant.  
  
(c) Upon receipt of the Applicant's written notice disputing the accuracy of Criminal record information, BHA will provide the Applicant a reasonable amount of time to provide credible evidence of the report's inaccuracy.
  6. Applicants shall be advised at the time of both Preliminary and Final Application intake that past and future criminal behavior by the Applicant and or a household member will jeopardize admission to BHA's public housing program.
  7. Depending on the circumstances, any of the following crimes committed by the Applicant or a household member may, alone

or in conjunction with other crimes, result in the rejection of an Applicant household:

- use, possession or distribution of illegal drugs;
  - a property-related crime such as burglary, larceny, fraud, automobile theft, receipt of stolen goods, and attempts at such crimes;
  - a crime against another person such as murder, manslaughter, assault and battery, assault and battery with a dangerous weapon, robbery, kidnapping, mayhem, rape, spouse or child abuse or any similar type crimes, and attempts at such crimes;
  - a crime that endangers or threatens the health, welfare or safety of others such as lewd conduct, indecent exposure, prostitution, disorderly conduct, public drunkenness, assault, harassment, reckless driving, leaving the scene of an accident, motor vehicle homicide, failure to stop for a police officer and attempts at such crimes.
8. BHA will consider the likely impact of a recurrence of past criminal conduct in a BHA community. BHA will consider the danger that such activity creates and its potential effect on the health, welfare or safety of Residents and staff and the security of their property. In evaluating criminal activity, BHA will consider each offense, its seriousness, its age, its potential impact on other persons including the victim, any possible recidivism, any Mitigating Circumstances and/or Reasonable Accommodation including any criminal activity which was a direct result of incidents of domestic or dating violence, sexual assault or stalking, and any rehabilitation or efforts at rehabilitation which make a recurrence unlikely.

**4. A record of eviction from housing, involuntary termination from rental assistance programs or involuntary termination from residential programs**

**A. Examples of primary indicators that an Applicant and/or household member has not been evicted from housing or involuntarily terminated from residential programs are:**

1. No record of eviction or termination from any apartment, dwelling, shelter, other housing, rental assistance program or a residential program;

2. No negative information received from a present or former landlord or housing provider;
3. The Applicant household member is currently in a residential program and is meeting all requirements of the program;
4. No record of summary process proceedings having been commenced in a District Court or Housing Court which resulted in a judgment against the Applicant or household member or in which the Applicant or household member voluntarily agreed to vacate due to the fault of the tenant.
5. The Authority will consider Mitigating Circumstances such as incidents due to a disability, sexual assault, domestic violence, dating violence, sexual assault or stalking which are related to a history of eviction or termination from any apartment or other housing program(s).

**B. Secondary indicators that an Applicant and/or household member(s) have not been evicted from housing, or involuntarily terminated from residential programs or from rental assistance programs are:**

1. The Applicant (or a household member) was asked to leave the program for a rule violation that is not related to BHA Lease compliance;
2. The Applicant or household member leaves a program but returns and is accepted for continued participation;
3. No references from current or past landlords or the Credit Bureau Applicant Background or Eviction Report indicating that the Applicant or a household member was ever served with a Notice to Quit or Notice of Termination when the reason for termination is due to the fault of the tenant;

**C. Acceptable documentation that an Applicant or household member has not been evicted from housing, terminated from a rental assistance program or involuntarily terminated from a residential program is:**

1. A completed **Landlord Verification Form** for the current tenancy and all prior tenancies and the Credit Bureau Applicant Background Check and Eviction Report reflecting no evictions due to the fault of any Applicant household member.

2. If a landlord verification is not possible, a completed **Third-Party Verification: Ability to Comply with Lease Terms** showing no “fault” evictions or terminations.

**D. How a record of eviction from housing, termination from a rental assistance program or involuntary termination from a residential program will be checked:**

1. Staff will check BHA’s records, landlord records and court records to determine whether the Applicant and/or a household member has been evicted from the BHA, any Other Publicly Assisted Housing Programs, or any other property in the past. BHA will also use Credit or Eviction Service information to check for a record of eviction.
2. A record of involuntary termination from a residential program will be checked with police, service agencies and with the provider.
3. Conditions of former tenancy may not be attributable to an Applicant or household member where the Applicant or household member was not the responsible tenant in the former housing. If the responsible tenant was not the Applicant or a household member, the Applicant will not be held accountable by the BHA for the rental delinquency or other problems of the former tenant unless it can be demonstrated that the Applicant or household member contributed to the cause of the involuntary termination.
4. Any household member who signed a previous Lease will be considered responsible for the actions occurring during the former tenancy.
5. Staff will consider the date and circumstances of any past eviction or program termination in determining its relevance to a BHA tenancy. Staff will consider if the eviction or program termination resulted from an Applicant’s (or household member’s) violation of rules and if a similar violation would violate the BHA Lease. Thus, infractions of rules in a residential program that have relevance to the BHA’s Lease will be given greater weight than violations of rules that are specific to the residential program and have little or no relevancy to those requirements.

5. **Ability and willingness to comply with the BHA Lease and other program requirements** (*This screening criteria will be applied ONLY in the absence of satisfactory landlord documentation.*)

**A. Examples of primary indicators of ability and willingness to comply with the lease terms are:**

1. The Applicant household can meet this criteria on its own or with assistance;
2. Through a home visit (if required) the dwelling or living area is clean and no destruction of property is evident;
3. The Applicant household has the ability to manage regular monthly payments of some kind; the Applicant household responds to mail and appears promptly for appointments;
4. The Applicant household observes applicable lease terms or rules in his/her current housing or shelter situation;
5. There is no record of disturbing neighbors; and
6. The Applicant and/or household members have avoided criminal activity.

**B. Secondary indicators of ability and willingness to comply with the lease terms are:**

1. Evidence of rule compliance in any residential program (shelters, transitional facilities, group homes) or other program in which the Applicant or household member is participating (for example drug or alcohol treatment);
2. Job or school references showing compliance with applicable rules.

**C. Acceptable documentation that an Applicant and/or household members have not been evicted from housing or involuntarily terminated from a residential program is:**

1. Verification from the current and all previous tenancies and the Credit Bureau Applicant Background Check and Eviction Report reflecting no evictions. If no traditional landlord verification is possible, BHA may require a completed **Third-Party Verification: Ability to Comply with Lease Terms** showing no "fault" evictions or terminations. Any discrepancies in the information on these forms must be resolved to the BHA's satisfaction.

2. Other documentation accepted as reliable and credible by the BHA, which is sufficient to support the Applicant household's claim of no "fault" evictions or program terminations.
3. The Authority will consider Mitigating Circumstances such as incidents due to a disability, sexual assault, domestic violence, dating violence, sexual assault, or stalking which are related to a history of eviction or termination from any apartment or other housing program(s).

**D. How ability and willingness to comply with the Lease terms will be checked:**

1. If each member of an Applicant household is able to document that s/he is both willing and able to comply with BHA Lease terms at current and former residences through a combination of third party references, landlord references and a home visit (if required), this criterion will be considered to have been satisfied.
2. Ability to comply with BHA Lease terms will be checked when the Applicant household is currently living in a setting that does not require compliance with Lease terms or is "doubled-up" with another household. An Applicant household is considered "doubled-up" when living with another household and is not the tenant household of record.
3. Staff will send the **Third-Party Verification: Ability to Comply with Lease Terms** form to the housing provider, i.e., landlord or other parties that may be able to provide information related to the tenancy. When the Applicant household is doubled-up, the form will be sent to the provider as distinguished from the host household with whom the Applicant household is living. Staff will also complete the **Applicant checklist: Ability to Comply with Lease Terms** in an interview with the Applicant.

If the housing provider (the provider may have no knowledge that the dwelling is housing two households) is unable or unwilling to complete the **Third-Party Verification: Ability to Comply with Lease Terms**, BHA will send the form to other third parties or persons who have or should have knowledge of the Applicant household's current living arrangements and to the head of the

host household. BHA will assess the credibility of the information in the completed form in light of any family ties between the host household and the Applicant household and any other pertinent circumstances.

### 5.3.6 Outcome of Screening Process

1. Households determined to be Eligible and Qualified after screening will be notified by the BHA of the approximate date of occupancy insofar as that date can be reasonably determined. The BHA will make reasonable effort to estimate accurately an approximate date of occupancy. However, the date given by the BHA is not a guarantee that Applicants will be housed by that date. The availability of a suitable apartment to offer a Household is contingent upon factors not directly controlled by the Authority, such as turnover rates, and availability of apartments of the appropriate size and/or with special features.

2. Rehabilitation and Mitigating Circumstances

In the event of the receipt of unfavorable information with respect to an Applicant the BHA will notify the Applicant in writing, and the BHA shall permit the Applicant to show whether there are Mitigating Circumstances, which may include a showing of rehabilitation or rehabilitating efforts, sufficient so that when the potentially disqualifying conduct is weighed against the Mitigating Circumstances, the BHA is reasonably certain that the Applicant will not engage in any similar conduct in the future. In making this determination, the BHA shall consider all relevant circumstances, including the severity of the potentially disqualifying conduct, the amount of time which has elapsed since the occurrence of such conduct, the degree of danger, if any, to the health, safety and security of others or to the security of the property of others or to the physical conditions of the housing development/AMP and its common areas if the conduct recurred, the disruption and inconvenience which recurrence would cause the BHA, and the likelihood that the Applicant's behavior in the future will be substantially improved. The greater the degree of danger, if any, to the health, safety and security of others or to the security of property of others or the physical condition of the housing, the greater must be the strength of the showing that a recurrence of behavior, which would have been disqualifying, will not occur in the future.

3. Applicants determined unqualified for admission will be promptly notified. These Applicants will receive a Notice of Ineligibility



from the BHA, stating the basis for such determination and advising them of the opportunity for an informal review of the determination. Rejected Applicants will also be informed that they have a right to request reconsideration if the reason for rejection is related to a disability and a reasonable accommodation on account of that disability may make it possible for them to be housed in accordance with the Screening Procedures.

#### **5.4 Confidentiality of Applicants' Files**

The contents of Applicants' files at the BHA are confidential and will not be misused or the information therein improperly disseminated. BHA will not share the contents of an Applicant's file with persons not authorized to view the file.

#### **5.5 Personal Care Attendants (PCAs) / Live-in Aides**

##### **5.5.1 Definition**

1. A Personal Care Attendant ("PCA") or Live-in Aide is defined as a person who:
  - a. is determined by BHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and well being of an Elderly or Disabled person or persons; AND
  - b. may or may not reside with the Elderly or Disabled person or persons; AND
  - c. is not obligated to support the Elderly or Disabled person or persons; AND
  - d. in the case of a live-in PCA or Live-in Aide, would not be living in the apartment except to provide the necessary supportive care; AND
  - e. has no right to the apartment as a Residual Tenant except as provided in 5.5.2.8.
  - f. does not have his/her income included in Elderly or Disabled persons household for the purposes of determining total household income and rent except as provided in 5.5.2.8.

##### **5.5.2 Policy on Addition of a licensed PCA or Live-in Aide to the Household**

###### General Provisions

1. Any PCA OR Live-in Aide must meet the definition of a PCA OR LIVE-IN AIDE as stated above.
2. A PCA OR Live-in Aide can be a single person or a person with a household.
3. No addition of a PCA OR Live-in Aide and his/her household, if applicable, shall result in **overcrowding** of the apartment.
4. No PCA OR Live-in Aide and his/her household, if applicable, has/have the right to the apartment as a Residual Tenant except as provided in 5.5.2.8.
5. Any PCA OR Live-in Aide and his/her household, if applicable, must sign a waiver of residual residency status except as provided in 5.5.2.8.
6. Any PCA OR Live-in Aide and his/her household, if applicable, must meet the criteria in the BHA's Screening Policy.
7. Any PCA OR Live-in Aide and his/her household, if applicable, will be counted as a member of the resident's Household for the purposes of determining the appropriate apartment size ONLY
8. A relative who satisfies the definition above will be notified in writing that s/he may be qualified as a PCA OR Live-in Aide and can choose one of the following two options:
  1. S/he can qualify as a PCA OR Live-in Aide, choose not to include his/her income as part of the Total Household Income and sign a waiver of residual residency status. OR
  2. They can qualify as a PCA OR Live-in Aide, have their income included as part of the total Household income and retain rights as a remaining member of the Household.

#### **5.6 Citizenship, Eligible Non-Citizen Status and Restrictions on Assistance to Non-Citizens (Federal Program Only)**

In federal developments/AMPs, BHA will restrict assistance to citizens and to Non-Citizens with Eligible Non-Citizen status, in accordance with HUD's final rule, effective June 11, 1999. Each household member's status as a U.S. citizen, Eligible Non-Citizen or ineligible Non-Citizen must be verified unless there is an election not to contend. Determination of eligibility or partial eligibility for public housing benefits (Federal Program only) is affected by citizenship status. One household member must be a citizen or Eligible Non-Citizen.

1. Evidence of Citizenship or Eligible Non-Citizen Status  
See Section 5.3.2.1 (h) "Verification of Household Composition" above for acceptable evidence of citizenship or Eligible Non-Citizen Status.
2. Verification of Citizenship Status  
  
The BHA will verify the citizenship or Eligible Non-Citizen status of at least one household member prior to a determination of eligibility. BHA may verify citizenship or Eligible Non-Citizen status of other household members (other than those who elect not to contend) prior to a determination of eligibility but no later than the date of a Household's first or next annual re-examination after admission if the verification was not completed at the time of admission.
3. Mixed Households
  - An eligible mixed Household is defined as a Household containing members who are citizens or with Eligible Non-Citizen Status, as well as members without such status, and that meets the criteria for eligibility for continued assistance.
  - Continued financial assistance may be provided to an eligible mixed Household, but it will be prorated based upon the percentage of Household Members that are eligible for assistance. If an Applicant Household elects to be placed on the waiting list for either Federal or State programs and to pay prorated rent in Federal Housing rather than waiting for assignment to a State-Aided Housing program, the Applicant will be obligated to accept an apartment offer in either program. Refusal of the offer shall be considered a rejection unless there has been a change in circumstances. (See Good Cause or Reasonable Accommodation– Section 6.2.5)
4. Financial Assistance
  - The BHA may provide financial assistance to an individual or Household prior to verifying the eligibility of the individual or one household member.
  - Assistance will be prorated based upon the number of individuals in the Household for whom eligibility has been affirmatively established.

5. The BHA will deny assistance to an Applicant or terminate assistance to a resident in the following situations:
  1. Evidence of citizenship or Eligible Non-Citizen status is not submitted by the date set by the BHA or by the expiration of any extension granted by the BHA;
  2. Evidence of Eligible Non-Citizen status is submitted in a timely fashion, but INS primary and secondary verification does not verify Eligible Non-Citizen status of a household member; and
    - a). The Household does not pursue an INS appeal or informal hearing rights; **or**
    - b). The INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the Household Member; **or**
  3. The BHA determines that a Household Member has knowingly permitted another individual who is not eligible for assistance to reside on a permanent basis in the public or assisted housing apartment of the Household Member. Such termination shall be for a period of not less than 24 months. This provision does not apply to a Household if the ineligibility of the ineligible individual was considered in calculating any proration of assistance provided for the Household.
6. The BHA will not delay, deny, reduce or terminate assistance to an Applicant or resident on the basis of ineligible Non-Citizen status of a household member if:
  1. The primary and secondary verification of any immigration documents that were submitted in a timely manner has not been completed;
  2. The household member for whom required evidence has not been submitted has moved from the assisted apartment;
  3. The household member who is determined not to be in an Eligible Non-Citizen status following INS verification has moved from the assisted apartment;
  4. The INS appeals process has not been concluded;

5. For residents, following notification of the INS decision on appeal, or in lieu of a request of appeal to the INS, an informal BHA hearing has been requested by the Household and said hearing process has not been completed (under the regulations, the BHA may delay but not deny assistance to an Applicant during the pendency of the informal hearing process);
  6. Assistance is prorated in accordance with the applicable Federal requirement; or
  7. Assistance for a mixed Household is continued in accordance with applicable Federal requirements; or
  8. Deferral of termination of assistance is granted.
7. Preservation of Assistance
- 7.1 For Resident Households:
- a) Prorated Assistance
    - Available for a mixed Household that qualifies other than a Household who requests and receives Temporary deferral of Termination Assistance.
    - Proration is calculated in accordance with Federal requirements.
  - b) Temporary Deferral of Termination of Assistance

A mixed Household that qualifies for prorated assistance but decides not to accept prorated assistance may be granted a Temporary Deferral of Termination of Assistance.

    - The BHA will notify a resident Household in writing at least 60 calendar days in advance of the expiration of a deferral period if termination will no longer be deferred.
    - An applicant for refugee or asylum status may receive a Temporary Deferral of Termination of Assistance pending a determination of status.

## CHAPTER 6: ASSIGNMENTS

### 6.1 Apartment Occupancy Guidelines

#### 6.1.1 Occupation by Households of Appropriate Size

It is BHA's policy that apartments will be occupied by Households of the appropriate size as determined by the Occupancy Standards.

#### 6.1.2 Table of Occupancy Standards

The following table of maximum and minimum number of persons per apartment and assignment standards will govern the number of bedrooms required to accommodate a household of a given size and composition:

***Occupancy Standards***

<i>Number of Bedrooms</i>	<i>Min. Persons/Apt.</i>	<i>Max. Persons/Apt.</i>
0BR	1	1
1BR	1	2
2BR	2	4
3BR	3	6
4BR	4	8
5BR	5	10
6BR	6	12

The Elderly/ Disabled Program does not have any Apartments larger than two bedrooms. Thus, Households requiring more than two (2) bedrooms may only apply for the Family Program.

#### 6.1.3 Apartment Assignments

Apartments shall be so assigned that:

1. The Head of Household and his /her spouse or partner shall be entitled to one bedroom.
2. Household Members under the age of twenty-five (25) who are of the same sex shall share a bedroom, with the following exemptions:
  - A. Household Members more than ten years apart in age and regardless of gender may qualify for separate bedrooms, if the older Household Member is fourteen years of age or older. For

example, a fifteen year-old Household Member may be eligible for a separate bedroom when living with a one-year old Household member of the same gender. HOWEVER, a thirteen year-old Household Member can be required to share a bedroom with a five-year old Household Member of the same gender.

- B. Persons of different generations or opposite sex, other than head and spouse or partner, are not required to occupy the same bedroom.
3. An unborn child **shall** be counted as a person in determining apartment size for admission purposes only, not for qualification for transfer
  4. Each Applicant shall be listed for only one apartment size. However, if the Applicant's Household qualifies for two apartment sizes, the Applicant may choose to be listed for either of these sizes.
  5. Single person Households may elect to be placed on a studio waiting list(s)/AMPs of choice and shall be assigned only to a studio Apartment. Applicants electing this option after housed may apply for an Special Circumstances Transfer to move to a one-bedroom at a development of choice **if**:
    - a) Has been a BHA Resident for at least two years; and
    - b) Is a Resident in good standing. No waiver of this requirement shall be approved.
  6. Single person Households may elect to be placed on a one-bedroom waiting list(s)/AMPs of choice and shall be assigned only to a one-bedroom Apartment.
  7. Transfer Applicants currently residing in a studio or a one-bedroom unit shall not be offered studio/efficiency units.
  8. Spouses, partners and children who would otherwise be required to share a bedroom under BHA's policies may be assigned separate bedrooms for substantial health-related or reasonable accommodation reasons which are thoroughly documented by a Qualified Healthcare Provider.
  9. A living room will not be counted as a bedroom, except in BHA's studio/efficiency apartments or for the use of an overnight Personal Care Attendant (PCA) OR Live-in Aide.
  10. First floor apartments as they become available will be offer first to BHA residents who are approved as reasonable

accommodation transfers to such unit types. If there are no approved reasonable accommodation transfers for this type units, they will be offered to a screened and qualified Applicant who is approved as a reasonable accommodation for a first floor unit. If there are no approved Applicant, such unit will be offered to the next highest ranked Resident or Applicant on the waiting list.

## 6.2 Offers and Good Cause or Reasonable Accommodation

### 6.2.1. A. Method of Applicant Assignment from a Waiting List

The plan for assignment of Qualified Applicants from a waiting list and assignment of apartments to assure equal opportunity and non-discrimination on grounds of race, color, sex, sexual orientation, handicap, disability, familial status, marital status, religion or national origin is established in accordance with HUD & DHCD Regulations. Under this plan, the Eligible Priority One Applicant with the highest Priority and/or Preference(s) and earliest approval date of such Priority and/or Preference(s) will receive one offer of an apartment of appropriate size at a development/AMP of choice. Failure to accept the housing offer to a unit of appropriate size and type will result in the withdrawal from all public housing waiting lists/AMPs and the Applicant will lose any approved Priority and/or Preference(s).

Furthermore, the Applicant will only be eligible to re-apply for the same Priority/Preference after one year from the date of the most recent apartment assignment rejection. During the 1-year period after an Applicant is removed from all waiting lists, BHA will only consider them for Priority and/or Preference status when an Applicant experiences a change in circumstances which justify a different Priority/Preference. An Applicant who is removed from all waiting lists due to apartment offer rejection may therefore apply for another Priority of different, equal or higher point value or the same Priority due to different underlying circumstances (See Section 4.4.5 for Priority point values).

BHA will recognize the new Priority and/or Preference status after verification and place the Applicant on awaiting list using the new status and the date of the new application.

Amongst Standard Applicants, the Eligible Applicant with the earliest application date is made one offer of an apartment of appropriate size and type. Failure to accept an offer of housing will result in the withdrawal for the particular site.



When an apartment of the appropriate size and type is available and ready for occupancy, the apartment offered will be the apartment with the earliest “ready” vacate date entered into BHA’s database.

#### **6.2.1.B. Method of Approved Transfer Applicant Assignment from a Waiting List**

It is the policy of the BHA that:

1) Every other fourth available apartment for each bedroom size and unit type category by development/AMP shall be offered to the next approved Special Circumstances Transfer Applicant at the top of the Special Circumstances Transfer waiting list/AMP, and

2) Every eighth apartment for each bedroom size category by development/AMP shall be offered to the next approved Under or Over Housed Transfer at the top of the On-Site Under or Over Housed Transfer list/AMP provided that the Development is at a 98% occupancy rate.

If the development is at 98% occupancy rate and there are no approved On-Site Under or Over housed transfers, the eight unit shall be offered to the next approved Special Circumstances Transfer Applicant. If there are no approved Special Circumstances Transfer, the eight unit shall be offered to the next highest ranked approved Applicant.

If the development is not at 98% occupancy rate, the eight unit will be offered to the next highest ranked approved Applicant.

3) All approved Special Circumstances **OR** Under or Over Housed Transfer Applicants shall be made only one housing offer to a unit of appropriate size and type. Failure to accept the housing offer will result in the withdrawal of the approved transfer and the resident may not re-apply for the same transfer type for a period of twelve months from the date the housing offer was rejected.

#### **6.2.2 More than One Apartment Available**

If two or more apartments of the appropriate size and type are available, the first apartment to be offered will be the apartment with the earliest time and vacate date that has been entered as “ready” and “available” for a housing offer into the database.

#### **6.2.3 Method of Identifying Available Apartments**

The BHA has a system for identifying vacated apartments available for offers in the database. Apartments are identified through the use of a Vacancy Action Form

indicating the status of each vacated apartment. An apartment may be identified as “vacant” in which case it will be available for offer to Applicants and Transfer Applicants on a waiting list. Alternatively, a vacated apartment may be placed in one of the following categories that will make it temporarily or permanently unavailable for offer from a waiting list.

<b>(B) Breakthrough</b>	Apartment will be combined with another Apartment to create a larger Apartment.
<b>(D) Demolition / Disposition</b>	Apartment No longer exists due to gut rehabilitation, building demolition or disposition.
<b>(F) Funded for Modernization</b>	Apartment planned for or under construction as part of a funded modernization program.
<b>(L) Lottery</b>	Apartment is part of a special re-occupancy program in which Apartments or residents are selected by a lottery.
<b>(P) Potential Redevelopment – Hope VI</b>	Apartment is off line pending funding for major rehabilitation.
<b>(S) Supported / Congregate</b>	Apartment is designated for residents under supported services agreement
<b>(A) Non – Residential</b>	Apartment will be used for Management, Resident Custodian, Agency, Police, Special Assignment, Laborer, or LTO. Requires Non Dwelling Conversion Approval.
<b>(E) Employee Occupied</b>	Will be used as a dwelling unit by a Resident Custodian or Special Assignment Laborer.
<b>(M) Administrative Transfer</b>	Relocation of residents for development/AMP renovation, relocation of residents from/to an Accessible/Adapted Apartment, or Temporary Transfer required to permit work required for extraordinary maintenance.
<b>(R) Temporary Relocation</b>	Held for temporary relocation of residents due to a funded phase of modernization.
<b>(U) Uninhabitable/Unfunded</b>	Temporarily unavailable due to serious code violations or essential system failures which require more than 1 month to correct.
<b>(Q) Turnover Conditions</b>	Currently unavailable – Requires clean-out and/or maintenance repairs before an offer is made

Apartments in the above listed categories which have not been made permanently unavailable, will be returned to “ Vacant” status and made available for offer to Applicants and Transfer Applicants on a waiting list as soon as practicable.

#### 6.2.4 Accepting/Rejecting Housing Offers

1. When assigned an apartment, an Special Circumstances Transfer or Under or Over Housed Transfer or Applicant will be offered only one apartment. An Special Circumstances Transfer, or Under or Over Housed Transfer or Applicant must accept an apartment offered within five (5) working days of the date the offer is communicated by the Occupancy Department (by phone and mail). Failure to accept an apartment offer will result in the following actions unless the Special Circumstances Transfer or Under or Over Housed Transfer or Applicant can establish extenuating circumstances for his/her failure to respond:

- A) Special Circumstances Transfers and Priority One applicants will be removed from all public housing waiting list(s)/AMP upon the refusal of a housing offer to a unit of appropriate size and type. Applicants will lose any approved Priority and/or Preference(s). The Special Circumstances Transfers will lose the approved Special Circumstances type. Furthermore, the Special Circumstances Transfers and Applicants will only be eligible to re-apply for the same Priority and any applicable approved Preference(s) or same Transfer type after one year from the date of the most recent apartment assignment rejection.  
During the 1-year period after Special Circumstances Transfers and Applicants are removed from all public housing waiting lists/AMP, BHA will only consider them for Priority and/or Preference(s) or Transfer type status when a Resident or an Applicant experiences a change in circumstances which justify a different Priority/Preference(s) or Transfer type. An Applicant or Resident who is removed from all waiting lists due to apartment offer rejection may, therefore, apply for another Priority or Transfer of different, equal or higher point value or the same Transfer or Priority due to different underlying circumstances (See Section 4.4.5 for Priority point values).

BHA will recognize the new Transfer type and Priority and/or Preference status after verification and place the Applicant on a waiting list using the new status and the date of the new application/transfer.

- Non-emergency On-site Under or Over Housed approved transfers shall not be affected by this refusal.

B) All other Applicants will be removed from the development/AMP waiting list of the site where the offer was made and may not re-apply for this site for a period of twelve months. In the case of an "Internal Applicant", if the resident is over or under housed the BHA shall take legal action upon the refusal of an offer of housing to a unit of appropriate type and size. On-Site Under or Over Housed transfer applicants will be withdrawn from the On-site waiting list and the resident will be subject to legal action(s). In addition, if there is an approved Special Circumstances Transfer this transfer shall be withdrawn as well if the unit rejected would have addressed the resident's needs and the resident may not re-apply for the same transfer types for a period of twelve months.

2. **Applicant Acceptance of Housing Offer:** Applicants who are offered a unit of appropriate size and type must accept said offer, and move to their assigned unit within 30 calendar days of the offer of housing unless otherwise agreed upon by the BHA in writing. Failure to move to the unit within the 30 calendar days or agreed date shall be considered as an unacceptable housing offer refusal.
3. **BHA Resident Acceptance of Housing Offer:** BHA Residents who are offered a unit of appropriate size and type must accept said offer, move to their new unit and vacate their current unit within 30 calendar days of the offer of housing unless otherwise agreed upon by the BHA in writing Failure to move to the unit within the 30 calendar days or agreed date shall be considered as an unacceptable housing offer refusal.
4. If the BHA resident fails to **completely** move to the offered unit within the 30 calendar days from their housing offer notification or BHA agreed date, the resident shall be subject to rent charges as approved by HUD and DHCD. See Chapter 7.8

#### 6.2.5 Good Cause or Reasonable Accommodation

In certain cases, applicants for admission or residents seeking transfers may require special consideration regarding their housing placement or transfer. Such consideration may address a particular verifiable need with respect to housing accommodations or may be needed to avoid a verifiable hardship.

If the Authority determines, after reviewing the request for such consideration and the documentation submitted in support of it, that the

Applicant or transfer applicant qualifies, he/she will be approved for an assignment for Good Cause or Reasonable Accommodation. Applicants for admission must apply for Good Cause or Reasonable Accommodation prior to receiving an offer of an apartment in order to assist the BHA in assigning an appropriate apartment. Residents seeking transfer must apply for Good Cause or Reasonable Accommodation at the time they submit a transfer request at their local management office or before they receive a transfer offer. The BHA maintains a detailed inventory of physical characteristics for all of its apartments for this purpose. These apartment characteristics, as well as the location of the developments/AMPs, will be used in matching an Applicant or transfer applicant in order to address the Good Cause or Reasonable Accommodation need.

The need for an assignment based upon Good Cause or Reasonable Accommodation shall be identified by the Applicant during screening with the assistance of Occupancy Department staff.

The need for a transfer to a particular type of apartment for Good Cause or as a Reasonable Accommodation or to a particular area of the city will be identified by the resident at the time of applying for transfer with assistance of the staff at his/her development/AMP or appropriate BHA staff reviewing the transfer request.

Below is a description of the BHA's procedure for requesting an assignment or transfer for Good Cause or Reasonable Accommodation: (This process must be completed before a housing offer is made):

1. The Applicant must indicate to the Occupancy Department staff, and a resident seeking transfer must advise staff in his/her management office, that he/she requires special consideration in identifying a particular type of apartment or placement in a particular area of the city and;

Good Cause or Reasonable Accommodation must be established in writing by a Qualified Healthcare Provider, or other professional (such as a law enforcement official, medical services provider, or social service provider) familiar with the Applicant's or resident's need, and;

The Applicant must indicate to the Occupancy Department, or the resident seeking transfer must advise staff in his/her management office, of the physical characteristic(s) and/or location of the apartment that is required to address the Applicant's or resident's needs in assignment or transfer during

the final eligibility determination process or transfer request submission

Assignment of an Apartment for Good Cause shown by the Applicant or resident **cannot** be related to considerations of race, color, sex, religion, sexual orientation, gender identity, familial status, marital status, national origin, or handicap or disability of others. Disabled individuals may apply for a reasonable accommodation under the BHA's Reasonable Accommodation policy.

2. Reasons considered Good Cause or Reasonable Accommodation and documentation adequate to establish Good Cause or Reasonable Accommodation are listed below:

- **THE AGGRAVATION OF A SERIOUS, DETERMINABLE PHYSICAL OR MENTAL IMPAIRMENT**

**ACCEPTABLE DOCUMENTATION:**

A statement from a Qualified Health Care Provider on letterhead stationery which establishes the precise reasons a particular apartment feature (or apartment location) is needed. The statement **MUST** provide information regarding the effect of the condition on the Applicant or household member and must document why a particular type of apartment (or apartment location) is needed.

- **INACCESSIBILITY TO SUPPORTIVE FACILITIES OR PROGRAMS FOR ELDERLY, HANDICAPPED, OR DISABLED HOUSEHOLD MEMBERS.**

**ACCEPTABLE DOCUMENTATION:**

A statement on letterhead stationery from a Qualified Healthcare Provider, which provides reliable documentation that a household member(s) has a condition which requires on-going regular or emergent care at a particular facility (hospital, clinic but not a practitioner's office), frequency of the treatment and anticipated length of treatment.

- **PARTICIPATION IN A WITNESS PROTECTION PROGRAM – APPLICABLE TO GOOD CAUSE ONLY.**

**ACCEPTABLE DOCUMENTATION:**

Written documentation on letterhead stationery from a law enforcement agency, which indicates that a Household Member(s) is, or might be endangered because they have provided essential information in a criminal prosecution. Documentation must specify the development(s)/AMPs or areas of the city in which the affected Household Members might be endangered.

- **DOMESTIC VIOLENCE/DATING VIOLENCE/SEXUAL ASSAULT/OR STALKING. APPLICABLE TO GOOD CAUSE ONLY.**

**ACCEPTABLE DOCUMENTATION:**

The BHA prefers documentation from a court of competent jurisdiction, and/or from a law enforcement agency, in conjunction with a temporary or permanent restraining order issued pursuant to M.G.L. c209A specifying underlying circumstances which would require a Household Member(s) to be located in an area of the city away from the location of the person named in the order or his/her relatives or associates. If the Applicant has cause to believe that obtaining a restraining order will trigger a violent act by another person, a combination of the following documentation that establishes that an abusive situation exists shall be acceptable:

- Medical records reflecting incident(s)
- Police reports regarding incident(s)
- Court Reports regarding incident(s)
- Documentation that Applicant has attempted to obtain restraining orders
- Documentation that Applicant has filed charges against the accused abuser
- Legal action regarding incident(s)
- Letter from an attorney stating details of a case arising from incident(s)
- Evidence of participation in counseling regarding domestic violence/Dating Violence/Sexual Assault/or Stalking
- Psychological reports
- Letter from a director of a social service agency regarding incidents
- Documentation of changed address due to domestic violence

- **THE TEMPORARY HOSPITALIZATION OR ON-DUTY MILITARY ASSIGNMENT OF THE HEAD OR CO-HEAD OF HOUSEHOLD**

**MEMBER, OTHER HOUSEHOLD MEMBER NECESSARY FOR THE CARE OF THE HEAD OR CO-HEAD OF HOUSEHOLD MEMBER, OR A PERSONAL CARE ATTENDANT OR LIVE-IN AIDE LISTED ON THE FINAL APPLICATION OR MOST RECENT TENANT STATUS REVIEW (TSR).**

**ACCEPTABLE DOCUMENTATION:**

A statement on letterhead stationery from a Qualified Health Care Provider indicating the name of the individual (must be the Head or Co-Head of Household or other Household Member necessary for the care of the Head or Co-Head of Household or personal care attendant or Live-in Aide), the date of admission, date of anticipated discharge (if known) or an estimate of the anticipated length of confinement or a statement from the individual's commanding officer indicating the date the active duty began and anticipated length of active duty.

- **THE INACCESSIBILITY OF PUBLIC TRANSPORTATION FOR NIGHTTIME EMPLOYMENT OF THE HEAD OR CO-HEAD OF HOUSEHOLD WHO DOES NOT OWN OR LEASE A MOTOR VEHICLE.  
APPLICABLE TO GOOD CAUSE ONLY.**

**ACCEPTABLE DOCUMENTATION:**

A statement from the employer, on letterhead stationery, detailing specific hours of nighttime employment, the date employment commenced, whether it is a permanent shift assignment and if not permanent, the length of the assignment, and a description of transportation benefits, if any.

3. Refusal of Apartment Offer for Good Cause or Reasonable Accommodation

An Applicant or transfer applicant may refuse an offer of an apartment without being removed from the waiting list only if:

- **HABITABILITY OF ASSIGNED BHA APARTMENT.”**

In the event the actual apartment cannot be restored to move in condition within thirty (30) calendar days of the date of offer, the Applicant may reject the apartment for Good Cause and the offer shall be considered as an “invalid offer.”

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**ACCEPTABLE DOCUMENTATION:**

A letter from the BHA development/AMP manager indicating the offered apartment will not be ready for move-in within thirty calendar days of the apartment offer.

- After successfully completing the final screening process, the Applicant's or transfer applicant's situation has changed such that a new, different or additional Good Cause consideration has arisen and the Applicant was unable to notify the Occupancy Department, or the transfer applicant was unable to notify the local management office, of the change due to extenuating circumstances, i.e. documented hospitalization, or;
- The transfer applicant's situation has changed after being approved for transfer and the resident was unable to notify the local management office or Occupancy Department of the change due to extenuating circumstances, i.e. hospitalization or;
- The hardship caused by acceptance of the offered apartment is due to a physical feature, which was not included in the apartment characteristics inventory as documented by the applicant. This will be considered as an inappropriate housing offer.
- **CHANGE IN HEALTH OR MILITARY STATUS AFTER SUCCESSFULLY COMPLETING THE FINAL SCREENING PROCES OR TRANSFER APPROVAL DUE TO THE TEMPORARY HOSPITALIZATION OR ON-DUTY MILITARY ASSIGNMENT OF THE HEAD OR CO-HEAD OF HOUSEHOLD MEMBER, OTHER HOUSEHOLD MEMBER NECESSARY FOR THE CARE OF THE HEAD OR CO-HEAD OF HOUSEHOLD MEMBER, OR A PERSONAL CARE ATTENDANT OR LIVE-IN AIDE LISTED ON THE FINAL APPLICATION OR MOST RECENT TENANT STATUS REVIEW (TSR).**

**ACCEPTABLE DOCUMENTATION:**

A statement on letterhead stationery from a Qualified Health Care Provider indicating the name of the individual (must be the Head or Co-Head of Household or other Household Member necessary for the care of the Head or Co-Head of Household or personal care attendant or Live-in Aide), the date of admission, date of anticipated discharge (if known) or an estimate of the anticipated length of confinement or a statement from the individual's

commanding officer indicating the date the active duty began and anticipated length of active duty.

### **6.3 Occupancy of Accessible Apartments and Apartments with Adapted Features**

It is the goal of the BHA to occupy its Accessible Apartments and Apartments with adapted features with a person or persons who has/have a disability that requires the adapted features of the apartment. The BHA shall take the following steps to achieve this goal.

1. The BHA shall maintain a database of all of its Accessible Apartments and Apartments with adapted features.
2. The BHA shall utilize this database to match residents and Applicants with a Household Member having a disability with appropriate apartments.
3. The BHA will offer an available Apartment with adapted features in the following order:
  - a. First, to a current Household of another apartment of the same development/AMP, or other public housing development/AMP under BHA's control, containing a member having a disability on account of which the adapted features of the vacant Apartment are needed. (In effect an Administrative Transfer of the resident Household with a disabled Household Member from the non-adapted Apartment to the vacant adapted Apartment.)
  - b. Second, to an Eligible and Qualified Applicant Household on the waiting list/AMP with a disabled household member who requires the adapted features of the vacant Apartment.
  - c. Third, to an Eligible and Qualified Applicant or Transfer Applicant Household on the waiting list/AMP that does not require the adapted features of the vacant Apartment. In this case, BHA will require that the Applicant sign a BHA lease which provides that the Applicant will move to a alternative available Apartment of appropriate size within thirty (30) calendar days when a Disabled Household Member of another Applicant household is identified as needing the adapted features of the Apartment on account of his/her disability.
4. The BHA shall also maintain a listing of all Apartments with adapted features where the current resident Household contains no disabled

Household Member requiring the adapted features. The BHA Occupancy Department will regularly check this listing to see if there is an Eligible and Qualified Applicant or Transfer Applicant Household with a disabled household member on the waiting list/AMP who requires an adapted feature of an Apartment on the list.

5. If the BHA finds that there is an Eligible and Qualified Applicant or Transfer Applicant Household on the waiting list with a disabled household member who requires an Apartment with adapted features and there is a current resident Household occupying an Apartment with adapted features not needed by any disabled household member, the BHA shall take the following action:
  - a. The BHA will notify the current resident Household of the requirement to transfer due to the existence of an Eligible and Qualified Applicant or Transfer Applicant Household with a disabled household member who requires the adapted features available in the resident's Apartment. If the BHA identifies more than one Apartment with the necessary adapted features, the resident Household with the shortest tenure in its current Apartment will be required to Transfer.
  - b. The BHA will initiate an Administrative Transfer process for the current resident Household. The BHA will identify an alternative appropriately sized Apartment based upon the resident's current Household composition on a case by case basis pursuant to the Administrative Transfer procedure of this policy.
  - c. The BHA will offer the alternative appropriately sized Apartment to the resident Household. The BHA will also notify the resident Household of their requirement to move within thirty (30) days of this offer. The resident may request and the BHA may grant a reasonable extension. As part of the transfer process, the BHA will consider any resident request for a Reasonable Accommodation and/or on-site transfer.
  - d. If the resident Household fails to vacate the Apartment with adapted features after being properly notified and offered an alternative appropriately sized Apartment, the BHA shall initiate legal action in accordance with the BHA lease.
  - e. Once the Apartment with adapted features becomes available, it will be offered to the identified Eligible and Qualified Applicant or Transfer Applicant Household with a

disabled household member on the waiting list in accordance with the procedures outlined in this policy.

**6.4 Occupancy of Apartments in a Designated Non- Smoking Building. Upon the approval of the Non-Smoking policy the BHA shall implement this policy in the following manner:**

**A. Designation of already Occupied Buildings and Apartments as Non-Smoking sites:** On or after September 1, 2012, the BHA shall implement the Non-Smoking policy at all of its BHA Buildings and Apartments. All BHA residents will be required to execute a new Lease or Lease Addendum agreeing to comply with the Non-Smoking policy. Residents shall be notified in writing of the specific date their site will be designated as a Non-Smoking property.

Reasonable Accommodation: Residents may request a Reasonable Accommodation in relation to the Non-Smoking Policy, in accordance with the BHA's Reasonable Accommodation Policy. Residents must adhere to the Non-Smoking policy until such time as a Reasonable Accommodation is granted.

In addition, the BHA shall work closely with the City of Boston to offer BHA residents smoking cessation programs.

**B. Designation of Vacant Apartments as Non-Smoking properties:** On or after approval of the Non-Smoking policy and in accordance with the implementation date established for each site. Applicants and Transfer Applicants will be required to execute a BHA Lease agreeing to comply with the Non-Smoking policy immediately upon accepting a housing offer assignment. The Applicant and Transfer Applicant shall be notified in writing of the specific date their assigned site will be designated as a Non-Smoking property.

**C. Designation of Vacant Buildings that were vacated for Capital and/or Modernization Work as Non-Smoking properties:** On or after approval of the Non-Smoking policy and in accordance with the implementation date established for each site the BHA may designate buildings that were vacated for capital and/or modernization work as Non-Smoking properties immediately as they become ready for occupancy. The BHA shall take the following steps to achieve this goal:

1. Residents who were relocated (or returning residents) from their site as a result of the capital and/or modernization work and who opted to return to their site after the work was completed shall execute a new Lease or Lease Addendum agreeing to comply with the Non-Smoking policy prior to returning to the site.

2. The BHA shall maintain a database of all its Non-Smoking Apartments as they are placed back on-line.
3. The BHA will offer an available Apartment at the Non-Smoking Building in the following order:
  - First, to returning residents who were relocated as a result of the capital and/or modernization work and who shall execute a new Lease or Lease Addendum agreeing to comply with the Non-Smoking policy. Second, to a current Resident Household of another apartment, containing a member having a disability for which a Non-Smoking apartment is needed as an approved reasonable accommodation transfer. In effect, this shall be considered as an Administrative Transfer of the resident Household with a disabled Household Member requiring and approved for a Non-Smoking Apartment. The resident will be required to execute a Lease or Lease Addendum agreeing to comply with the Non-Smoking policy.
  - Third, to an Eligible and Qualified Applicant or Transfer Applicant Household in accordance to their ranking on the waiting list and who will be required to execute a Lease or Lease Addendum agreeing to comply with the Non-Smoking policy.

## CHAPTER 7: TRANSFER POLICY

### 7.1 General Transfer Policy

A Transfer application may be initiated by a resident Head of Household occupying an apartment under a BHA lease, or under certain circumstances such as an apartment fire, under a Use and Occupancy Agreement pursuant to this Policy (Resident Initiated Transfer). A transfer may also be initiated by the BHA. The BHA will initiate transfers required as a result of a scheduled capital improvement or building maintenance program; required use of an Accessible Apartment or an Apartment with adapted features by another resident or Applicant with a disability; Over or Under Housed Households; apartment conditions which seriously endanger health or safety and cannot be repaired in a reasonable period of time or while the apartment is occupied; or addition of minor child(ren) to the Household at the future date specified by an Applicant during the final application process (see Section 9.1.3.3) (BHA Initiated Transfer).

All requests for Transfer are reviewed and final decisions made in a timely manner by the BHA's Management staff except for Reasonable Accommodations, Security and Civil Rights Special Circumstances Transfers which shall be referred by Management to the Transfer Review Committee for a final determination, as established by the Administrator of the BHA.

To qualify for an On-Site or Special Circumstances Transfer, a Resident:

1. Must have been in residence for at least one (1) year.
2. Must be considered in "good standing" at the time of an Application for Transfer, at the time of determination of Transfer eligibility, and at the time of actual implementation. "Good standing" means the household is:
  - ◆ Current in its rental payments unless it is legally withholding rent pursuant to the provisions of the Lease or applicable law.
  - ◆ Not currently under a Fourteen (14) Day or a Thirty (30) Day Notice to Quit, Summary Process Action or action pursuant to Mass. Gen. Laws, Chapter 139, section 19.3.2

Some or all of these requirements may be waived in certain situations pursuant to the provisions of this policy. For example, a resident in a situation which may constitute a life-threatening situation to the health, safety or well-

being of the resident or a Household Member who does not meet all of the criteria may have some or all of these conditions waived<sup>11</sup>. If the resident is a party to or under a Use and Occupancy Agreement, s/he may be transferred and any legal action against the resident will continue.

Residents seeking non-Special Circumstances Transfers may apply for an On-Site transfer only. Residents seeking a Special Circumstances Transfer will be placed on all of the BHA's Public Housing waiting lists/AMPs for which their household meets the Threshold Eligibility Requirements exclusive of annual income limits (See 5.1.2) and in accordance with any approved requests for Good Cause and/or Reasonable Accommodation.

## 7.2 Transfer Categories

BHA has three categories of transfers: Administrative, Special Circumstances, and Under or Over Housed. Special Circumstances and On-Site Under or Over Housed Transfers are placed in Priority order as described in Sections 4.4.3 "Priority and/or Preference System" and 4.4.5 "Point System" of the ACOP. Administrative Transfers are processed as described in Section 4.5 "Administrative Transfers" of this Policy:

### 7.2.1 Administrative

Administrative transfers are transfers due to the following reasons and will be on-site transfers unless it may not be accommodated at the site:

1. The current apartment has become uninhabitable and immediate relocation is required as a result of the following:
  - Destruction by fire or other disaster; or
  - The existence of a major maintenance problem that constitutes a substantial violation(s) of the state sanitary code and presents a serious danger to health and safety that cannot be repaired in a reasonable period of time or while the apartment is occupied.
2. The apartment is located in a building or section of building scheduled for capital improvement pursuant to a funded capital improvement program or other major rehabilitation effort. (See BHA's **Residential Relocation & Rehousing Policy** for detailed procedures on transfers because of capital improvement programs.)

<sup>11</sup> The Administrator or his/her designee may approve a waiver of any provision of this policy not required by law if the waiver of such provision would avoid substantial hardship or substantial injustice to a Transfer applicant (See Section 10.8 Waiver Provision).

3. The transfer is required to permit occupancy of an accessible apartment or apartment with adapted features by another resident or an Applicant with a disability.
4. A temporary transfer is required to permit work required for a maintenance or repair problem that cannot be repaired while the apartment is occupied. The Resident will be returned to the same apartment if the apartment is of the appropriate size, following completion of the maintenance or repairs.
5. In Federal Housing, the Household is Over housed by two (2) or more bedrooms.
6. In State Housing, the Household is Over housed by two (2) or more bedrooms.
7. The relocation is necessary due to the household's current and on-going threat(s) as a result of domestic violence/sexual assault/dating violence/stalking which has been documented, investigated, and recommended by the BHA's Public Safety Department or other sources deemed acceptable by the BHA Director of Occupancy or such other person as may be designated by the BHA Administrator.

### 7.2.2 Special Circumstances

Special Circumstances Transfers are transfers necessary to the health and/or safety of one or more Household members and shall be offered the every other 4th available unit by development by bedroom size. Special Circumstances Transfers will be offered housing at the first available every other 4th unit of appropriate size and type at any of the BHA sites, except for those transfers requested as the result of the Designated Housing Plan or if qualify to transfer from a studio to a one-bedroom apartment at a development of choice. Residents will be required to document any special needs such as floor location, bedroom size, or neighborhood during the transfer application process or before a housing offer is made. Approved Special Circumstances Transfers will receive one housing offer. Failure to accept a housing offer will result in the withdrawal of the approved Special Circumstances Transfer and the resident may not re-apply for the same transfer type for a period of one year. The following are criteria for Special Circumstances Transfers:

1. A Household Member has a serious, medically determinable, physical or mental condition that is aggravated by the present housing such that the condition is life threatening or a condition not qualifying as



life-threatening that can be alleviated and/or substantially improved **only** by relocation to another apartment; or

2. The head or other Household Member is a victim of physical harassment, extreme or repeated vandalism to personal property and/or extreme and/or repeated verbal harassment, intimidation or coercion, which places them in imminent danger and that cannot be expeditiously remedied in any other way<sup>12</sup>; or

3. The Household needs to be relocated because of a Household Member's participation in a witness protection program or in order to avoid reprisal as a result of providing information to a law enforcement agency or participation in a witness protection program; or

4. The transfer requested is for a person with a disability who requires reasonable accommodation to address dire circumstances posing serious and direct threat to health, life or safety which can only be alleviated by relocation to another apartment. The resident shall provide documentation of the disability and how the transfer will reasonably accommodate the disability.

5. The Household is Under housed by three (3) or more bedrooms

6. In accordance with the BHA's Designated Housing Plan, a Household with a Non-Elderly Disabled Head or Co-Head currently residing in the Elderly/ Disabled Federal Housing Program who wishes to transfer to the Federal Family Housing Program.

7. In accordance with the BHA's Designated Housing Plan, a Household with an Elderly Head or Co-Head currently residing in the Family Federal Housing Program who wishes to transfer to the Federal Elderly/Disabled Housing Program.

**7.2.3 On-site Under or Over housed Transfers.** An under/over housed transfer waiting list will be established for each development/AMP. These lists will be maintained by the Occupancy Department. Housing offer assignments will be made when the development/AMP occupancy rate is at least 98% (at smaller sites this means one vacancy). At that time, every 8<sup>th</sup> vacancy by bedroom size will be assigned to the next approved under/over housed transfer. These transfers will be ranked based on the unit size required and application date and time.

ii. Under or over housed transfers are those transfers made for the following reasons:

<sup>12</sup> Transfers in this category will be processed pursuant to BHA's Civil Rights Protection Plan ("CRPP").

1. In Federal Housing, the Household is Over by one (1) bedroom or Under housed by either two (2) or one (1) bedroom(s). Over/Under housed residents shall be processed for BHA transfer at the time of re-examination or interim re-determination in order to conform to BHA's Occupancy Standards. Residents will be informed in writing that a transfer is necessary and pending. Residents who fail to transfer will be subject to eviction; or
2. In State Housing, the Household is Over housed by one (1) bedroom or Underhoused by either two (2) or one (1) bedrooms. Over/Under housed residents shall be processed for BHA transfer at the time of re-examination or interim re-determination in order to conform to BHA's Occupancy Standards. Residents will be informed in writing that a transfer is necessary and pending. Residents who fail to transfer will be subject to eviction.

Note: Residents over housed at sites where the unit size required does not exist shall be transferred under an Administrative Transfer.

Residents who under housed at sites where the unit size required does not exist shall be allowed to select other developments of choice, and they shall be considered as an "On-site" under housed transfer.

### 7.3 Good Cause or Reasonable Accommodation

In certain cases, residents seeking transfers may require special consideration regarding their transfer. This consideration is essential to address a particular verifiable need with respect to housing accommodations or to avoid a verified hardship. This documentation must be submitted with the transfer request. If the Authority determines, after reviewing the request for such consideration and the documentation submitted in support of it, that the Applicant or transfer applicant qualifies for such consideration, he/she will be approved for an assignment for **Good Cause or Reasonable Accommodation to a unit of appropriate size and type**. Good Cause or Reasonable Accommodation requests shall be submitted for review prior to a housing offer. (Please see Section 6.2.5 for a complete description of the BHA Good Cause procedure).

## 7.4 Verification of Reason for Transfer

### 7.4.1 Verification Examples

Residents will be asked to provide reliable documentation of the reasons for a Resident-Initiated transfer at the time the transfer is requested. Such verification may include the following items:

1. A letter(s) from Qualified Healthcare Provider describing a transfer applicant's physical or mental condition and specifying housing conditions required on account of the condition;
2. For reasonable accommodation requests, reliable documentation from a Qualified Healthcare Provider or professional non-medical service agency whose function it is to provide services to the disabled should verify that the transfer applicant or a member of his/her Household is disabled under the applicable definitions in Federal and State law and describe the limitations attributable to the disability. Documentation must describe how the accommodation being requested will overcome or alleviate those limitations;
3. Police reports;
4. Civil Rights incident reports;
5. Copies of restraining orders;
6. Information on maintenance conditions;
7. Documentation to show "Good Cause" or "Reasonable Accommodation" to move to or from a certain part of the city of Boston, or certain type of apartment; or
8. Any other documentation that provides the BHA with evidence that the request for a transfer is based on fact and meets the transfer criteria.

### 7.5 Denial of Transfer Requests

In all instances, transfer approval shall be denied if the resident does not provide appropriate documentation to substantiate the transfer request; or if the BHA determines that the resident, other Household Member, or guest was the cause of the situation resulting in the need for transfer unless the existing condition of the apartment makes it uninhabitable in which case any approved transfer may be under a Use and Occupancy Agreement

### 7.6 Transfers on a Waiting List/AMP

Administrative Transfers will be processed on a case-by-case basis as described in Section 4.5 "Administrative Transfers".

Special Circumstances Transfers will be placed on every applicable waiting list/AMP and shall be offered the first available every other 4th unit by development by bedroom size and unit type that will meet the households' needs.

Transfers will be maintained on each public housing development's/AMP's waiting list. BHA will rank transfers by the type of transfer: Special Circumstances or On-Site Under or Over Housed Transfers as specified above. An offer of an apartment shall be made in accordance with Chapter 6 and 7 of this ACOP. Special Circumstances Transfer offers are made on the basis of ranking Priority and Preference points and date of application to the first one in every other fourth unit by development by bedroom size and appropriate unit type. On-Site Under or Over Housed Transfers are made on the basis of bedroom size required and date of application but are also subject to the following additional apartment assignment process.

#### **7.7 On-Site Under or Over Housed Transfer Apartment Assignments**

In recognition of the need to maintain a balance of apartment assignments allocated to waiting list Applicants and BHA residents, the BHA will assign apartments to approved On-Site Under or Over Housed transfer applicants in accordance with the following "one in eight" policy:

- Vacant apartments are assigned to Applicants and certain transferring residents in order of; Priority and/or Preference points; the date such Priority and/or Preference points are granted; and in the case of Standard Applicants the date of application pursuant to Chapters 6 and 7 of this ACOP. Special Circumstances Transfers, Eligible and Qualified Priority One and Priority Two Applicants will receive offers of vacant apartments ahead of On-Site Under or Over Housed Transfers and Standard Applicants as a result of the ranking process. It is the policy of the BHA that every eight available apartment for each bedroom size category shall be offered to the On-Site Under or Over House transfer when next in line to receive an offer when the site's occupancy rate is 98% or, for smaller sites when there is only one vacancy. This "one in eight" allocation will be calculated separately for each development/AMP by bedroom size. If no On-Site Under or Over Housed Transfer Applicant exists, the offer will be made to the next Under or Over Housed person on the waiting list.

## 7.8 Transfers at Residents' Expense

All transfers are at the resident's expense, except those required by capital improvement programs (see the BHA's Residential Relocation and Rehousing Policy (RRRP)).

Residents offered a transfer to a unit of appropriate size and type must accept said offer, move to their new unit and vacate their current unit within 30 calendar days from the offer of housing notification unless otherwise agreed upon by the BHA in writing.

BHA residents who will be relocating to another unit who fail to vacate and return the key by the determined and agreed date shall be responsible to pay a pro-rated use and occupancy for the unit being vacated in addition to their regular monthly rent for the new transferred unit. Once the unit is accepted, the resident must move to the new unit within ten (10) calendar days after they have received the key to the new unit. BHA will consider extenuating circumstances and/or reasonable accommodation requests.

## 7.9 Transfer Waiver/Reasonable Accommodation

An Elderly or non-elderly disabled BHA Household residing in a Family Development/AMP which is Over housed by not more than one bedroom may apply for a reasonable accommodation due to advanced age and/or seriously infirm health of a Household Member to remain in his or her current apartment instead of transferring. A household for which separate bedrooms have been approved for health reasons is not eligible for a waiver under this section. Denial of such a waiver is reviewable pursuant to BHA's Grievance Policy.

## 7.10 Continued Occupancy for Veterans, Widows/Widowers of Veterans or Gold Star Mothers (Applicable to State Housing Developments Only)

In State-aided housing only, pursuant to Massachusetts General Laws the BHA shall not, if a resident in an apartment consisting of two bedrooms or less is a veteran or a widow or widower of a veteran or is a Gold Star Mother and has lived in the residence for at least the last eight (8) consecutive years, deny such resident continued occupancy at such residence provided that the rent is not more than three (3) months in arrears.

## 7.11 Consequences of Rejection of Approved Transfer by Resident

### Special Circumstances and Administrative Transfers

In the case of Special Circumstances or Administrative Transfers, rejection of an offer of an Apartment of appropriate size and design will result in revocation

of the resident's approved Special Circumstances or Administrative Transfer status. His/her name will be withdrawn from the transfer waiting list. Furthermore, the resident will not be eligible to apply for an Special Circumstances or Administrative Transfer for the same circumstances for a period of one year from the date of the most recent apartment assignment rejection. During the one-year period, the BHA will consider a change in circumstances resulting in a new request for transfer.

Upon receiving notification from the resident of the housing offer rejection, the development/AMP managers shall initiate eviction against residents who are Over Housed by three (3) bedrooms or more.

In addition Over Housed residents in the State housing program will be charged 150% of their monthly rent upon the housing offer refusal as required by State regulations.

#### **On-Site Under or Over Housed Transfers**

In the case of On-Site Under or Over Housed Transfers, rejection of an offer of an Apartment of appropriate size and design will result in revocation of the resident's approved Under or Over Housed Transfer status and his/her name will be withdrawn from the waiting list. Furthermore, the resident will not be eligible to apply for a Under or Over Housed Transfer for the same circumstances for a period of one year from the date of the most recent apartment assignment rejection. During the one-year period, the BHA will consider a change in circumstances resulting in a new request for transfer.

Upon notification by staff in the Occupancy Department, the development/AMP manager will proceed with eviction against an Over or Under housed resident who has rejected the offer.

In addition Over Housed residents in the State housing program will be charged 150% of their monthly rent upon the housing offer refusal as required by State regulations.

Residents seeking to relocate to other BHA sites for other reasons not described above shall apply as an "Internal Applicant" and be processed in the same manner as an "Applicant" for new admission and must meet all eligibility requirements See Chapters 4 and 5. Except for residents transferring from a State-Aided development to another State-Aided development where the Transfer Criteria eligibility requirements will be applicable and not the requirements set in Chapter 4 and 5.

In addition, 1) "Internal Applicants" who are over or under housed and fail to either successfully complete the screening process or fail to accept a housing offer of a unit of appropriate size and type will be subject to legal action(s) and 2) Over Housed residents in the State housing program will be charged 150% of their monthly rent upon the housing offer refusal as required by State regulations.

## CHAPTER 8: RESIDUAL TENANCY POLICY

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

### 8.1 Qualifications for Residual Tenancy

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

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

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

OR

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

AND

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

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### 8.1.2 Divorce, Separation or Protective Order

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

### 8.2 Residual Tenancy and Income

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

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### 8.3 Rent During Use and Occupancy Period

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

### 8.4 Limitations of Policy

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

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

## 8.5 Residual Tenancy – Right of Appeal

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

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## CHAPTER 9: OTHER OCCUPANCY PROVISIONS

### 9.1 Lease Provisions

#### 9.1.1 Leasing of Apartments

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

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5. If at any time during the term of the lease, a change in the resident's status or circumstances results in the need for changing or amending any provision of the lease, either:
  - A new lease agreement will be executed, or
  - A Notice of Rent Change will be sent to the resident, or
  - An appropriate lease addendum shall be executed and become part of the existing lease. All copies of such addenda are to be dated and signed by the Head and Co-Head of Household and by the authorized representative of the BHA.
6. Only those persons listed on the most recent lease or Tenant Status Review form shall be permitted to occupy an apartment on a continuing basis.

#### **9.1.2 Length of Lease**

1. *Federal Developments/AMPs only:* In accordance with the Quality Housing and Work Responsibility Act, all BHA leases will be for a duration of 12 months. At the end of each 12-month term, leases will be automatically renewed, unless there is noncompliance by an adult Household Member with the BHA's Community Service and Economic Self-Sufficiency Policy after its effective date.
2. *State Developments only:* Leases are continuous unless terminated by the BHA for cause or at the request of the Resident or by operation of law.

#### **9.1.3 Policy Regarding Additions of Persons to the Lease and Change of Head of Household**

The request for an addition of a person to the Lease must be made in writing by the Head or Co-Head of Household named in the Lease.

A Family may request to change which Family member is designated the Head of Household in situations where the Head of Household is frail or disabled and the current Head of Household continues to reside in the unit. The Family may also decide to designate or change a Co-Head of Household. The BHA will approve the change if the Family member is able to take on the responsibilities of being the Head of Household/Co-Head of Household, including, but not limited to,

communicating with the BHA and the landlord. The proposed Head or Co-Head of Household will be fully screened.

To qualify to apply for an addition of a person to the Lease, a Resident: must be considered in "good standing" at the time of an Application for additions of person(s) to lease, at the time of determination of eligibility of person(s) to be added to Lease, and at the time of actual addition of person(s) to Lease. "Good standing" means the household is:

- ◆ Current in its rental payments unless it is legally withholding rent pursuant to the provisions of the Lease or applicable law.
- ◆ Not currently under a Fourteen (14) Day or a Thirty (30) Day Notice to Quit, Summary Process Action or action pursuant to Mass. Gen. Laws, Chapter 139, section 19.

1. *Additions by Birth, Adoption or Operation of Law*

Additions to the Household which occur by birth, adoption or operation of law (i.e., permanent custody, marriage) or addition of a caretaker relative or other responsible adult who has a guardianship order (temporary<sup>13</sup> or permanent), or addition of a responsible adult who provides a written designation from the parent of a BHA Household Member to care for the minor Household Member. may occur subject to meeting the resident selection criteria as described in Chapter 5 (See also Section 9.1.3.4 for additions 14 years or older ).

2. *Other Additions to a Household*

Other additions may be approved if the individual proposed as an addition is related by blood or has evidenced a stable, interdependent relationship with a current Household Member, including the sharing of financial resources. Any such person must have the intention to live regularly in the apartment as his/her principal residence. In proposing an addition, the Head of Household shall submit the name(s) of the proposed addition(s) and identify the individual(s) as "proposed Household Member(s)". An Applicant, at the time of final processing for admission, shall notify the Occupancy Department in writing that one or more of his/her natural or adopted minor children will be joining the Household at some future date following the leasing of the apartment. Occupancy Department staff will record the name(s) of the minor child(ren) on a form attached to the Final application. At the time of assignment, the assignment

<sup>13</sup> Temporary orders shall be for a period of at least one year in order to be considered under this provision.

transmittal notice will include this information. When the resident presents evidence to the manager that the MINOR child or children is/are ready to join the Household, the manager will add them to the Household composition and immediately generate a transfer application for a larger apartment, if necessary. The Transfer application will be processed in accordance with Authority transfer procedures.

### 3. *Occupancy Policy Screening Criteria*

Any person 14 years or older, proposed for residency in a BHA apartment, must meet BHA's resident selection criteria as described in this Admissions and Continued Occupancy Policy (See Chapter 5). When a Head of Household requests permission for an addition(s) to the Household, the resident selection criteria shall be used by the Occupancy Department to determine whether or not the proposed household member is eligible for admission.

Should the tenant/head of household expire subsequent to the occupancy department receiving the completed application for the proposed addition to the tenant's household, the death of the tenant/head of household shall not result in withdrawal or denial of the application and the department's review of the application shall be completed and if the subject of the application for the proposed addition to the tenant's household is determined eligible for admission to housing he/she shall be added to the household composition retroactive to the date of receipt of the application by the department and he/she shall be allowed to apply to become a BHA resident as a Residual Tenancy Applicant. (See Chapter 8)

### 4. Right to Appeal

A resident who disagrees with an adverse action taken by the BHA regarding a request for an addition of a person to the Lease can request a grievance hearing pursuant to the BHA Grievance Policy.

#### **9.1.4 Other Occupancy Provisions**

1. The addition of a household member shall be made in accordance with the lease and this ACOP. Residents who fail to notify BHA of additions to the Household are in violation of the lease. Residents who add a person or person(s) to the Household without the written permission of the BHA are also in

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

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

## 9.2 Annual and Interim Redeterminations

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### General Policy

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

Deleted: For residents in family developments/AMPs who choose to pay flat rents, family information will be updated annually but income information will only be updated every three years.

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

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

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

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

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

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

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

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

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

**Deleted:** If a head, co-head or spouse who has previously had employment income reports zero income at an annual or interim re-certification, the household should also be re-certified every ninety days.

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

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

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

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

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## 1. Flat Rent

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

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

## 2. Income-Based Rent

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

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

### 9.2.1 Over-Income Policy

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

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

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

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

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

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

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

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

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

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

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

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These verification techniques are described as follows:

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

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Resident-supplied documents must be dated within sixty (60) days of receipt by the BHA or as required by our regulatory agencies. This type of third party verification is the second highest acceptable form of verification.

- **Written Third Party Verification Form** – A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). The BHA will send the form directly to the third party source by mail, fax, or e-mail. This type of verification will be used if the resident is unable to provide acceptable documents that are generated by a third party.
- **Oral Third Party Verification** - Staff documented verification from a third party via telephone will be accepted after Up-Front verification has been determined to be unavailable and/or written third party verification has been attempted and the third party is unresponsive to BHA's written requests within ten (10) business days of mailing. Staff shall utilize the same form that would have been mailed to the third party. All the information required by the written verification form should be requested during the telephone contact. BHA staff will complete the form on the basis of such information. The contact person, date and time of conversation will be noted and the BHA staff person who made the telephone call will sign the form. Oral third party verification is considered to be the second lowest acceptable form of verification.
- **Verification by Resident Certification (Tenant Declaration)** – With approval from the Assistant Directors of Property Management, Staff may choose to accept an affidavit from a Resident regarding income, deductions and exclusions. Approval will only be granted upon documentation that all other methods of verification have been attempted and determined to be unsuccessful. Verification by resident certification is considered to be the lowest acceptable form verification.

Projections of annual income shall be based on the best available information, with due consideration to the past year's income of all household members, current income rate and effective date; and shall include projections for each income recipient in the household.

In order to ensure that all sources of income, assets, deductions and exclusions are considered in calculating annual income, Staff shall interview all residents using the Income and Deductions Questionnaire.

The following forms of verification of income, deductions, exclusions and assets will be accepted:

## 1. Income from Employment

- Verification through the computer matching system employed by HUD (EIV) or a computer wage reporting system.
- Pay stubs showing gross income and all deductions taken for four current consecutive pay periods; or
- A statement from the Employer stating the gross wages of the employee, including history or anticipated amounts of overtime or bonus to be earned by the employee.

The income of workers employed on an irregular basis will be estimated based on the verification of the best information available, with due consideration to earning ability and work history.

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**2. Income from governmental agencies**

- Verification through the computer matching system employed by HUD (EIV) or a computer wage reporting system.
- A statement from the appropriate agency (Social Security, Department of Transitional Assistance, Employment Security, etc), stating the amount of annual or monthly income provided, including the gross amount and any deductions taken.

**3. Income from Retirement Accounts**

- A statement from the source stating the amount of annual or monthly income provided, including the gross amount and any deductions taken.

**4. Income from the operation of a business or profession**

- Most recent audited financial statement of income and loss;
- Most recent tax return showing income and loss from the operation of a business or profession.

**5. Zero Income**

When an adult resident household member reports zero income, the BHA will require the resident household to complete a No Income Statement. If the resident household member owns a motor vehicle, a telephone, or

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has other evidence of some form of expenditures reflecting income, the resident household member will be asked to explain the source of funds supporting such cash expenditures.

In addition, the resident household member will be required to sign releases allowing the BHA to obtain verification of no-income from sources such as Dept. of Transitional Assistance, Internal Revenue Service, Department of Revenue, Social Security Administration, Employment Security and Veterans Affairs.

#### **6. Child Support, alimony, regular gifts and gambling proceeds**

- A statement from the individual, business or agency providing the income and the frequency and amount of income provided; and/or
- Signed release form allowing the BHA to obtain information from the State Division of Child Support.

#### **7. Income from Assets**

Income from assets shall be based on either the actual income received or imputed income based upon current passbook savings rates in accordance with federal and state regulations as applicable. For instance, actual interest received shall be used for interest bearing bank accounts, money market funds, rented property, etc. Imputed income will be used for real property which is not rented, jewelry, coin collections, works of art and other non-income bearing assets. If the value of the asset is more than \$5,000 the higher of imputed income or actual income received will be used.

Common household items such as furniture, clothing, and vehicles used for day-to-day transportation shall not be considered assets for the purposes of calculating income.

Types of verification which will be accepted for purposes of determining the value and income received from an asset include:

- Current statement for all savings, money market and/or mutual funds accounts. Six current and consecutive statements for checking accounts or other assets for which regular statements are issued;

- Most recent (no older than one year) appraised value of real property owned provided it's reflective of fair market value, in the form of property tax bill or appraisal from a Real Estate Appraiser; and
- Appraised valuations of any non-essential personal assets such as jewelry, coin collections, antiques or classic cars.

#### **8. Verification of childcare expenses or care of disabled household member deductions**

Statement from the provider of childcare or care of Disabled Person who is a household member of the amount of payment made on a periodic basis by the resident household

Filed income tax return stating the amount paid for childcare or care of a disabled household member and the person or agency to whom the expense was paid.

#### **9. Verification of Medical Deductions**

The BHA Medical deduction applies to families where the head or spouse is a person who is at least 62 years of age or a person with disabilities. Eligible residents must submit evidence of the following medical expenses for all household members paid within the last twelve months:

- Statement of the cost of medical insurance and the frequency of cost from the provider or in the form of deductions indicated on pay stubs or Social Security statements accompanied by proof of payment;
- Receipts for payment of prescriptions and other health care needs. Non-prescription health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items (including non-prescription medications, wheelchairs or other disability related aids, etc);
- Signed printout of prescription costs from a pharmacy accompanied by proof of payment;
- Medical or dental bills for a household member paid by a household member;
- Un-reimbursed reasonable attendant care and auxiliary apparatus expenses and 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.

#### **10. Verification of Permissive Medical Deductions**

Applies to resident households as a BHA determined permissive deduction per QWHRA Regulations. This Medical deduction applies to resident households where the head or spouse is not a person who is at least 62 years of age or a person with disabilities. Eligible residents must submit evidence of the following medical expenses for all household members paid within the last twelve months:

- Statement of the cost of medical insurance and the frequency of cost from the provider or in the form of deductions indicated on pay stubs or Social Security statements accompanied by proof of payment;
- Receipts for payment of prescriptions and other health care needs. Non-prescription health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items (including non-prescription medications, wheelchairs or other disability related aids, etc);
- Signed printout of prescription costs from a pharmacy accompanied by proof of payment;
- Medical or dental bills for a household member paid by a household member;
- Un-reimbursed reasonable attendant care and auxiliary apparatus expenses and 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.

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

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

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

#### 1. Required Use of EIV

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

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EIV also provides various reports to assist the BHA with the following:

- Identifying tenants whose reported personal identifiers (name, date of birth or Social Security number) do not match the Social Security Administration database;
- Identifying tenants who need to disclose a SSN;
- Identifying tenants whose alternate identification number (Alt ID) needs to be replaced with a SSN;
- Identifying tenants who may not have reported complete and accurate income information;
- Identifying tenants who have started a new job;
- Identifying tenants who may be receiving duplicate rental assistance;
- Identifying tenants who are deceased and possibly continuing to receive rental assistance;
- Identifying former tenants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a housing authority or Section 8 landlord.

## 2. **Disputing EIV Information and Resolving Discrepancies**

In accordance with 24 CFR §5.236(b)(2)(3), the BHA is required to compare the information on the EIV report with the family-reported information. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference in the reported income information, the BHA is required to take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the BHA is required to request from the third party source, any information necessary to resolve the income discrepancy; and
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively\*; and
- Take any other appropriate action as directed by HUD or the BHA's administrative policies.

\*The BHA is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

Tenants are required to reimburse the BHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the BHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the BHA **must** terminate the family's tenancy or assistance, or both. HUD does **not** authorize any PHA-sponsored amnesty or debt forgiveness programs.

Sometimes the source or originator of EIV information may make an error when submitting or reporting information about tenants. HUD cannot correct data in the EIV system. Only the originator of the data can correct the information. When the originator corrects the data, HUD will obtain the updated information with its next computer matching process. Below are the procedures tenants and PHAs should follow regarding incorrect EIV information.

**Employment and wage information** reported in EIV originates from the employer. The employer reports this information to the local State Workforce Agency (SWA), who in turn, reports the information to HHS' National Directory of New Hires (NDNH) database.

If the tenant disputes this information, s/he should contact the employer directly, in writing to dispute the employment and/or wage information, and request that the employer correct erroneous information.

The tenant should provide the BHA with this written correspondence so that it may be maintained in the tenant file. If employer resolution is not possible, the tenant should contact the local SWA for assistance.

**Unemployment benefit information** reported in EIV originates from the local SWA. If the tenant disputes this information, s/he should contact the SWA directly, in writing to dispute the

unemployment benefit information, and request that the SWA correct erroneous information. The tenant should provide the PHA with this written correspondence so that it may be maintained in the tenant file.

**SS and SSI benefit information** reported in EIV originates from the SSA. If the tenant disputes this information, s/he should contact the SSA at (800) 772-1213, or visit the local SSA office. SSA office information is available in the government pages of the local telephone directory or online at <http://www.socialsecurity.gov>.

**Note:** The tenant may also provide the BHA with third party documents which are in the tenant's possession to support their dispute of EIV information. The BHA, with the tenant's consent, is required to submit a third party verification form to third party sources for completion and submission to the BHA, when the tenant disputes EIV information and is unable to provide documentation to validate the disputed information. The tenant's failure to sign the consent form is grounds for termination of tenancy and/or assistance in accordance with 24 CFR §5.232.

**Debts owed to PHAs and termination information** reported in EIV originates from the PHA. If a current or former tenant disputes this information, s/he should contact the PHA (who reported the information) directly in writing to dispute this information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three (3) years from the end of participation date in the PIH program.

**Identity Theft.** Seemingly incorrect information in EIV may be a sign of identity theft. Sometimes someone else may use an individual's SSN, either on purpose or by accident. SSA does not require an individual to report a lost or stolen SSN card, and reporting a lost or stolen SSN card to SSA will not prevent the misuse of an individual's SSN. However, a person using an individual's SSN can get other personal information about that individual and apply for credit in that individual's name. So, if the tenant suspects someone is using his/her SSN, s/he should check their Social Security records to ensure their records are

correct (call SSA at (800) 772-1213); file an identity theft complaint with the local police department and/or Federal Trade Commission (call FTC at (877) 438-4338, or visit their website at: <http://www.ftc.gov/bcp/edu/microsites/idtheft/>); and s/he should also monitor their credit reports with the three national credit reporting agencies (Equifax, TransUnion, and Experian). The tenant should provide the PHA written documentation of filed identity theft complaint. (Refer back to paragraph on Employment and wage information regarding disputed EIV information related to identity theft).

Tenants may request their credit report and place a fraud alert on their credit report with the three national credit reporting agencies at: [www.annualcreditreport.com](http://www.annualcreditreport.com) or by contacting the credit reporting agency directly. Each agency's contact information is listed below.

#### **National Credit Reporting Agencies Contact Information**

Equifax Credit Information Services, Inc.  
P.O. Box 740241  
Atlanta, GA 30374  
Website: [www.equifax.com](http://www.equifax.com)  
Telephone: (800) 685-1111

Experian  
P.O. Box 2104  
Allen, TX 75013  
Website: [www.experian.com](http://www.experian.com)  
Telephone (888) 397-3742

TransUnion  
P.O. Box 6790  
Fullerton, CA 92834  
Website: [www.transunion.com](http://www.transunion.com)  
Telephone: (800) 680-7289 or (800) 888-4213

### **3. Security of EIV Data**

The Federal Privacy Act (5 USC §552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. As such, the EIV data of an adult household member may not be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information.

However, the PHA is not prohibited from discussing with the head of household (HOH) and showing the HOH how the household's income and rent were determined based on the total family income reported and verified.

EIV information and any other information obtained by the BHA for the purpose of determining eligibility and level of assistance may not be disclosed to third parties for any reason (even for similar verifications under other programs, such as eligibility for low income housing tax credit units, other federal or state assistance programs), unless the tenant has authorized such disclosure in writing.

### 9.3 Self-Sufficiency Income Exclusions

The earned income exclusion is only available for households under lease. It is not applicable at admission. Only adults can qualify for the earned income disallowance (because the earnings of family members other than the head or spouse are excluded if the family member is under age 18). Each person can receive only one 24-month disallowance period during his or her lifetime. There are three categories of individuals who qualify for the earned income disallowance:

- A person whose annual income increases because of employment after having been unemployed for at least 12 months. A person is considered to have been unemployed if he or she has earned less money in the previous 12 months than would have been earned working 10 hours per week for 50 weeks at the established minimum wage. (The minimum wage to be used is that applicable to the locality in which the determination is made.) The majority of families who qualify for earned income disallowances are likely to do so under this category. Note: An individual who was unemployed for some period of time before becoming a public housing resident or who earned so little in the previous period to be considered unemployed could qualify under this category, so long as there is a 12 month period of unemployment.
- A person whose annual income increases because of new or increased earnings during participation in an economic self-sufficiency or other job-training program. This requirement is not the same as the previous income disregard. The key concept in this eligibility category is that the individual receives the new or additional earned income while he or she is involved in economic self sufficiency or job training, not after the completion of such training. Note: An example of this category of qualification occurs when people are studying for a variety of medical professions. Typically, classroom work is followed by a 'practicum' in a doctor's office, hospital or clinic, during which the individual is paid.
- A person whose annual income increases because of new or increased earnings, during or within six months after the household's receiving assistance, benefits or services from a program funded by any state program for Temporary Assistance to Needy Families funded under Part A of Title VI of the Social Security.

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#### 9.4 **Community Service and Economic Self-Sufficiency Policy (Applicable to Federal Developments/AMPs Only)**

##### **GENERAL REQUIREMENTS**

As part of the Quality Housing and Work Responsibility Act of 1998, Congress imposed a requirement that all adult residents of federally funded public housing, unless specifically exempted, must perform community service activities or participate in an economic self-sufficiency program to remain eligible for public housing assistance. Therefore the federal public housing lease provides that all non-exempt residents must:

- Contribute 8 hours per month of community service (not including political activity); or
- Participate in an economic self-sufficiency program for 8 hours per month; or
- Perform eight hours each month of combined community service and self-sufficiency activities.

##### **DEFINITIONS**

**Community Service:** For the purpose of this policy, community service is the performance of voluntary work or duties for the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, and/or increase the self-responsibility of the resident within the community in which the resident resides. Community service is not limited to a single type of activity or a single location. Acceptable community service activities include, but are not limited to, improving the physical environment of the resident's development/AMP; volunteer work in a local school, hospital or child care center; working with youth organizations; or helping neighborhood groups on special projects. By statute, political activity is not an eligible form of community service.

**Economic Self-Sufficiency Program:** For the purpose of this policy, an economic self-sufficiency program is any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include, but are not limited to: programs for job readiness or training, employment training, work placement, basic skills training, education, English language proficiency, work fare, financial or household management, apprenticeship, and any program necessary to ready a participant to work, such as substance abuse or mental health treatment.

## NOTIFICATION OF RESIDENTS

The Boston Housing Authority will notify all new residents of the community service requirement at the time of lease signing. The notification will include an explanation of the program and will list the categories of individuals who are exempt from performing community service activities. Definitions and examples of community service and economic self-sufficiency activities will be part of the notice.

All current residents will be provided with a copy of this notice at the time of annual re-examination.

The notification will also advise families when the community service obligation will begin. Non-exempt residents will be required to begin performing community service at their first lease renewal date following the adoption of this policy.

## EXEMPTIONS

The following residents over the age of eighteen are exempt from this requirement:

1. Resident household members who are 62 or older;
2. Resident household members who are blind or disabled as defined in the Social Security Act (Section 216 (i) (1) or Section 1614 of the Social Security Act (42 USC 416 (i) (1); 1382c);

The Social Security Act defines disability as the “inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months.”

Blindness is defined as “central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no less than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.”

Residents who claim exemption because of disability or blindness must also certify that because of this blindness or disability they are unable to comply with the community service requirement. If a resident does not meet this definition of blindness or disability and believes that he or she is



unable to perform community service or economic self-sufficiency activity, he or she may apply for an exemption from the requirement as a reasonable accommodation under the BHA Reasonable Accommodation in Housing Policy (RAHP). An application for reasonable accommodation can be obtained at the development/AMP management office.

3. Resident household members who are the primary care giver of a blind or disabled individual as described in paragraph 2;
4. Resident household members who are engaged in a work activity as defined under section 407 (d) of the Social Security Act (42 USC 607 (d)), for ten or more hours each week;

Work activities are:

- Unsubsidized employment;
  - Subsidized private sector employment;
  - Subsidized public sector employment;
  - Work experience, including work associated with refurbishing; publicly assisted housing, if sufficient private sector employment is not available;
  - On-the-job training;
  - Job search;
  - Community service programs;
  - Vocational educational training not to exceed twelve months;
  - Job skills training directly related to employment;
  - Education directly related to employment for a resident who has not received a high school diploma or a certificate of high school equivalency;
  - Satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalency for a resident who has not completed secondary school or received such a certificate; or
  - The provision of childcare services to an individual who is participating in a community service program.
5. Resident household members who are exempt from work activity under Part A of Title IV of the Social Security Act (42 USC Section 601 et seq.) or under any other state welfare program, including a State-administered welfare-to-work program; or
  6. Resident household 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 (42 USC 601 et seq.), or under any other State welfare program, including a State-administered welfare-to-work program or the Supplemental Nutrition Assistance Program (SNAP), and is in compliance with all provisions of that program.

In accordance with HUD guidelines, persons eligible for a disability deduction in rent are not automatically exempt from the community service requirement. A resident is exempt only to the extent the disability makes the person “unable to comply” with the community service requirement.

### INITIAL DETERMINATION OF EXEMPTION

All applicants will be provided with an information sheet describing the community service/self-sufficiency requirement at the time they make their final application. At the time the lease is signed, the property manager will again provide the head of household with the community service information sheet. Each household member will be asked to declare if they are exempt from community service and provide the appropriate verifications.

In order to establish an exemption the following verification must be provided:

1. **Age 62 or over.** Any birth certificate or proof of age already submitted by the resident to establish age or achieve eligibility for occupancy as a person 62 or older shall be deemed sufficient verification.
2. **Disability or blindness.** Receipt by a household member of Social Security Disability or SSI benefits shall be deemed proof of disability under this policy. A household member whose application for disability benefits is pending shall be deemed disabled unless and until a denial of the application is received. Any resident who believes they meet the definition of disability included in this policy may submit a statement from their treating physician providing BHA staff with facts that will assist them in determining whether the resident is disabled within the definition applicable under this policy. If a resident does not meet this definition but still believes that he or she is unable to perform community service, the resident may apply for a reasonable accommodation under the BHA RAHP policy. The manager will provide an application for reasonable accommodation upon request.  
Residents who are determined to be exempt because of blindness or disability shall also sign a statement certifying that they are unable to comply with the community service requirement because of the blindness or disability.
3. **Primary caregiver of a disabled or blind person.** A statement from the person being cared for or his or her guardian affirming that the resident seeking exemption acts as the primary caregiver and the period during which (s)he is expected to continue in that role shall be adequate verification.
4. **Engaged in work activity.** The verification of employment income provided to BHA for rent determination shall be adequate for this purpose. Verification of participation in job training or other qualifying program must be submitted by the providing organization or school.

5. **Exempt from work activity under state welfare program.** Verification of the exemption should be obtained from the welfare department.
6. **Member of a family who receives assistance from a state welfare program and is in compliance with that program.** Verification of receipt of program assistance and compliance should be obtained from the welfare department.

The manager will make a determination of exempt status and notify the resident. If the resident disagrees with the determination, he or she may file a grievance under the BHA grievance procedure.

The exemption status for each household member will be entered on the client worksheet. Families with non-exempt members will receive a list of community service and self-sufficiency opportunities.

#### **CONTINUING DETERMINATION OF EXEMPTION AND COMPLIANCE**

Each year, as part of the Tenant Status Review, the property manager will determine whether each non-exempt household member has complied with the community service requirement and whether each exempt household member continues to be exempt.

Included with the letter requesting the head of household to come to the office for the status review will be a reminder that resident compliance with and/or exemption from community service will be determined as part of the status review. A list of exemption categories, a reminder that certain exemptions from the community service requirement must be reviewed annually and a description of the documentation needed to support each exemption will be attached to the letter. A Verification of Compliance form for each household member who was required to perform community service will be provided at the recertification appointment. These forms must be completed and returned to the property manager at least thirty (30) days before the lease term expires. The form includes confirmation of:

- the number of hours of community service/self-sufficiency work completed,
- the type of work completed
- the community organization where the work was completed
- the signature, name, title, address and phone number of the person supervising completion of the work.

At the time of the status review the manager will reconfirm the exemption status of each household member. The head of household may provide the property manager with the required documentation for any change in status claimed by an adult family member. The manager will reconfirm the following exemption categories annually:

- Blindness or disability

- Primary caregiver
- Engaged in work activity
- Exempt from work activity under a state welfare program
- Exempt through receipt of assistance, benefits or services from a state welfare program and in compliance with all provisions of the program.

If a household member becomes exempt from the community service requirement during a lease term and informs the manager so that the exemption can be verified, he or she shall be exempt from performing community service for the entire year. Unemployed residents, for example, may request an exemption if they find work or start a job training program. If a resident is determined by BHA to become exempt during the year, s/he will be excused from the entire annual 96-hour requirement. There is no obligation for a resident to report a change in status from exempt to non-exempt between regular status reviews. If a resident previously determined to be exempt becomes non-exempt during a lease term, he or she is not required to report the change in status to the manager until the next status review.

If the household is found to be in compliance with the community service/self-sufficiency requirement as well as all other requirements for continuing occupancy, the lease will be automatically renewed. An annual lease signing process is not necessary.

## **NON-COMPLIANCE**

If the BHA determines that a non-exempt resident has not complied with the community service/self-sufficiency requirement, the property manager must notify the head of household of the noncompliance in writing. This notification must also inform the resident that:

- the determination of noncompliance is subject to the BHA's grievance procedure;
- unless the resident enters into an agreement to cure or the non-compliant adult no longer resides in the unit, the lease of the family of which the noncompliant adult is a member shall not be renewed; and
- the resident has the opportunity to cure the noncompliance during the next twelve-month period.

To take advantage of the statutory opportunity to cure, the noncompliant adult must sign an agreement stating that the noncompliant adult will complete, over the next 12-month term of the lease, the additional hours of community service or economic self-sufficiency activity needed to reach the required total of 96 hours for the prior year. These additional hours must be performed in addition to the 96-hour requirement for the current lease year.

As is required by law, continued non-compliance will result in the commencement of eviction proceedings against the entire household, unless the noncompliant family member is no longer part of the household.

## **DOCUMENTATION**

The property manager must retain documentation of community service participation and/or exemption in the resident's file.

At lease signing for new residents or at the Tenant Status Review for current residents, the manager must ensure a Certification of Exemption Status form is completed for each adult household member claiming an exemption from the community service/self-sufficiency requirement. Supporting documentation will be requested of the resident to verify exempt status and copies of the verification will be retained in the file.

At the time of the annual Tenant Status Review, the head of household is responsible for ensuring that a Verification of Compliance form is completed by the appropriate authority for every non-exempt household member. This form will also be maintained in the resident file.

## **GRIEVANCE PROCEDURE**

Upon filing a written request, as provided in the Boston Housing Authority grievance procedure, any resident who disagrees with any Boston Housing Authority (BHA) action or failure to act in accordance with the Community Service Policy shall be entitled to a grievance hearing.

## **PROHIBITION AGAINST THE REPLACEMENT OF EMPLOYEES**

In implementing the community service requirement, the Boston Housing Authority will not substitute community service for work ordinarily performed by public housing employees or replace a job at any location where community work requirements are performed.

## **THIRD-PARTY COORDINATING**

The Boston Housing Authority intends to exercise its option to administer the community service/self-sufficiency requirement through one or more of the following alternatives:

- directly administer some qualifying community service and economic self-sufficiency activities;
- make such activities available through a contractor; or

- make such activities available through partnerships with qualified organizations, including resident organizations and community agencies or institutions.

## 9.5 Inspections

In accordance with the lease, apartment inspections are performed at three times: pre-occupancy, upon move-out, and at least once annually and as further provided in the BHA lease.

### 9.5.1 Pre-Occupancy Inspections

1. The BHA and the resident or his/her representative will inspect the apartment prior to occupancy by the resident. The BHA will give the resident a copy of the statement of conditions showing the condition of the premises, interior and exterior as applicable, and of any appliances provided with the apartment.
2. The statement of conditions shall be signed by a BHA representative and resident and a copy of the form retained in the resident's folder. Any deficiencies noted on the statement of conditions will be corrected by the Authority before the resident moves in, and at no charge to the resident.

### 9.5.2 Annual Inspections

1. The BHA will inspect all apartments at least annually and more frequently if apartment conditions are not safe, sanitary and in good repair. Residents will be notified as to the date and time of inspections in accordance with provisions in the lease.
2. Annual inspections will evaluate the following: any need for repairs; housekeeping conditions; safety violations; and resident's compliance with other obligations under the lease. The resident will be informed of any deficiencies and notified of any action required by the resident or the BHA to correct deficiencies.
3. BHA will correct deficiencies determined to be the BHA's responsibility.
4. Where resident action is required, re-inspections will be conducted.
5. Where the resident fails to take required action to correct deficiencies, the BHA may correct the deficiencies and bill the

resident. The resident shall also pay promptly, upon receipt of a bill, for lock replacements or re-keying and for the cost of all materials and/or labor for repair of any damage to BHA property caused by the negligence or intentional act of the resident, a member of resident's Household or a guest; the bill shall clearly state the items for which the charge is made, the work done, and the cost of labor and materials; the bill shall not become due and payable before the first day of the second month following the month in which the charge is billed; BHA will post in each management office a list of the hourly rate charged for labor.

### **9.5.3 Move-Out Inspection**

The BHA will inspect the apartment after the resident vacates the apartment and give the resident a written statement of conditions, repairs, cleaning and replacements for which the resident is responsible. The resident and/or his/her representative may join in such inspection, unless the resident vacates without notice to the BHA.

## **9.6 Lease Termination Procedures**

The lease of a BHA resident provides the terms and procedures for termination of the lease.

### **9.6.1 Recordkeeping Requirements for Lease Termination**

A written record of every termination and/or eviction shall be maintained by BHA in the resident file, and shall contain the following information:

1. Name of resident, number and identification of the apartment occupied;
2. Date of the 14-Day Notice, 30-Day Notice, or other notice of Intent to Terminate and the Notice to Vacate;
3. Specific reason(s) for the Notice(s), indicating the section(s) of the lease allegedly violated, and other facts pertinent to the issuing of the Notices described in detail;
4. Date and method of notifying the resident;
5. Summary of any conference held with the resident including date, names of conference participants and conclusion.
6. Decisions of any grievance panel hearings.

## CHAPTER 10: MISCELLANEOUS PROVISIONS

### 10.1 Deprogramming Apartments

BHA will seek approval from DHCD and HUD prior to deprogramming any apartment in Federal or State-assisted developments/AMPs in accordance with applicable regulations. A deprogrammed apartment is one that is no longer available for occupancy under a BHA resident lease.

### 10.2 Supported Housing Programs

#### 10.2.1 Social Service Agreements

1. At its discretion, and if required with HUD and/or DHCD approval, the BHA may enter into an agreement with social service or other agencies to provide supportive services to Applicants and residents, including targeted populations, who need special help in order to establish and maintain tenancies, provided that evidence exists that the agencies are reliable organizations with experience at providing related services and are fiscally sound.
2. Assistance required under such agreements shall include, but is not necessarily limited to, the following services:
  - Assistance in evaluating applicants for program participation;
  - Checking to see if the residents are paying their rents and other charges and are properly maintaining their units;
  - Helping residents to maintain their households, including managing their money;
  - Providing specialized supportive services and crisis intervention in order to obtain necessary treatment to avoid eviction action.
3. All Applicants and residents who participate in these programs must meet the Threshold Requirements for the program for which they are applying. (See 5.1.2)



4. All Applicants and residents who participate in these programs must meet the Applicant Screening Criteria as specified in this policy and/or any Memorandum of Agreement between the BHA and the service organization.

### 10.2.2 Apartment/Development/AMP Designations

Supported Housing Programs may be established for a development/AMP or certain designated apartments within a development/AMP.

### 10.3 Designated Housing Program (Federal Elderly/Disabled Program only)

#### 10.3.1 Plan Description

The BHA will allocate units in the Elderly/Disabled developments/AMP in order to move towards a ratio of 80% designated to elderly families and 20% to non-elderly disabled families. In order to achieve these percentages additional admission Preference Points will be applied to Elderly and Non-Elderly Disabled Applicants at designated Elderly/Disabled Program developments/AMPs. The Preference Points will be applied when: 1) Applicants who are Elderly and are on an Elderly/Disabled Program development/AMP wait list where the Elderly resident population is less than 80% and who **do not** require wheelchair accessible units will receive Preference Points in addition to any they may already have and 2) Applicants who are Non- Elderly Disabled and are on an Elderly/Disabled Program development/AMP wait list where the Non-Elderly Disabled resident population is less than 20% and who **do not** require wheelchair accessible units will receive Preference Points in addition to any they may already have. Under this Plan, there are times when BHA selects elderly applicants ahead of non-elderly disabled applicants in order to reach agreed-upon percentages in its housing developments. Non-elderly disabled applicants who are bypassed may become eligible for a Section 8 Housing Choice Voucher from a set-aside created by the Designated Housing Plan.

#### 10.3.2 Development/AMP Designation

The BHA will monitor the percentages of elderly and non-elderly disabled households living in each Elderly/Disabled Development/AMP on a monthly basis. When the percentage of elderly households occupying a development/AMP reaches 75%, the development/AMP will be flagged so that each subsequent offer of housing will be reviewed by a Manager in the Occupancy Department. When the percentage of elderly households occupying a development/AMP reaches 80%, the BHA will turn off Designated

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

#### 10.4 Elderly Preference(State Elderly/Disabled Program only)

##### 10.4.1 Plan Description

(1) General Provisions for Placements.

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

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

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

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

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

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

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

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households and eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old, the LHA shall place eligible and qualified disabled households, without regard to age, until there is an eligible and qualified elderly household or, in the absence of such an elderly household, an eligible and qualified disabled household whose members have attained age 50 but who are less than 60 years old.

## **10.5 Resident Custodians and Special Assignment Laborers**

### **10.5.1 Rules Governing Residency of Resident Custodians and Special Assignment Laborers**

Resident custodians and special assignment laborers (BHA employees living in BHA apartments as a condition of employment under a license agreement) must be determined eligible in accordance to the Resident Custodian or Special Assignment Laborer license agreement. They shall not be considered public housing residents. They are not subject to the same requirements (including the waiting list procedure) and do not have the same rights as public housing residents. In particular, they:

- Do not have to qualify as a Low Income Household;
- Are not subject to the BHA's resident selection procedures;
- Are subject to the Resident Custodian or Special Assignment Laborer license agreement eligibility requirements;
- May be charged a reasonable rent or may be provided a BHA apartment rent-free;
- Are not subject to BHA lease and grievance procedures, but have a license agreement for occupancy with the BHA; and
- Are not entitled to remain in the same apartment in public housing if their employment is terminated, but shall be entitled to apply for public housing.

### **10.5.2 Admission as Residents**

Upon change in status, resident custodians and special assignment laborers may apply to become BHA residents, but may only be admitted to a BHA apartment after they have been determined Eligible and Qualified as defined by the BHA's ACOP. Upon the successful completion of the final eligibility determination process a housing offer assignment will be made pursuant to the Resident Custodian or Special Assignment Laborer license agreement.

## **10.6 Occupancy by Police Officers (Federal Developments/AMPs Only)**

### **10.6.1 Definition of Police Officer**

For purposes of this subsection, a police officer is defined as a person who is employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of a local police force or an accredited police force of a housing agency may qualify.

### **10.6.2 Purpose of Policy**

In order to increase security for BHA public housing residents, the BHA may allow police officers to reside in a public housing apartment, even if such police officers might not otherwise qualify, based on income, for BHA public housing.

### **10.6.3 Terms of Tenancy for Police Officers**

1. Occupancy

Police Officers who apply for BHA housing will be subject to the same terms, standards (other than income) and procedures that are applied to all other BHA Applicants.

2. Verification

Police officers will undergo the same verification procedures applied to other BHA Applicants. Those procedures are outlined in this Admission and Continued Occupancy Policy. Screening criteria contained in this policy therefore apply.

3. Waivers

Police Officers approved for occupancy in BHA apartments will be given a waiver that allows them to be chosen for BHA housing without being placed on the Authority's waiting list.

4. Lease

Police Officers shall execute a lease or occupancy agreement with the BHA providing for the terms of occupancy of an apartment.

5. Annual Re-certification

Continued employment as a police officer as defined in this subsection, will remain a determining factor in the renewal of a Police Officer's lease or occupancy agreement. Police Officers are therefore required to submit annually to the BHA proof of continued employment as a police officer.

Failure to remain employed as a Police Officer will therefore result in a refusal to renew a Police Officer's lease or occupancy agreement.

6. If a person is no longer a Police Officer, but meets the BHA eligibility standards, the Police Officer may apply for admission as a BHA resident.

**10.6.4 Apartments to be Occupied by Police Officers**

The BHA will offer apartments to Police Officers based upon BHA-determined security needs. In no event shall the number of apartments allotted for Police Officers exceed one Police Officer per development/AMP with more than 100 apartments but less than 500 apartments, and not more than two Police Officers for any development/AMP with over 500 apartments.

**10.7 Pet Policy**

BHA residents may have pets, in accordance with the BHA's current Pet Policy for the specific development(s)/AMP(s) at which they select to live. In state-aided housing, this policy requires the approval of DHCD.

**10.8 Waiver Provision**

The Director of Occupancy may recommend and the Administrator, or his/her designee who shall be a senior management employee, may approve a waiver of any provision of this policy not required by law if the waiver of such provision would avoid substantial hardship or substantial injustice to an Applicant or a transfer applicant. In each such case a written report must be filed by the Director of Occupancy, and approved by the Administrator or his/her designee. These reports (if any) shall be available to HUD and DHCD on a quarterly basis. Further, copies of these reports (if any) with names and other identifying references deleted shall be available for public inspection, upon request. No waiver shall be in violation of Chapter 1, Section 1.1 of this ACOP. Examples of situations in which a waiver may be requested and approved include but are not limited to: individuals with a potentially terminal illness, for example, AIDS, who are experiencing a housing crisis, a Household which must abandon its current housing in a distant location in

order to relocate to Boston so that a seriously ill Household Member can receive specialized medical treatment available at a Boston area medical facility.

## CHAPTER 11: DEFINITIONS OF TERMS USED IN THIS STATEMENT OF POLICIES

1. **Accessible Route** - For persons with a mobility impairment, a continuous unobstructed path that complies with space and reach requirements of the Uniform Federal Accessibility Standards. For persons with hearing or vision impairments, the route need not comply with requirements specific to mobility.
2. **Accessible Apartment** - when used with respect to the design, construction or alteration of an individual apartment, means that the apartment is located on an Accessible Route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical handicaps or disability. An apartment that is on an Accessible Route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 [the Uniform Federal Accessibility Standards] is “accessible” within the meaning of this paragraph.
3. **Adaptable** - Ability of certain elements in an apartment to be changed to accommodate the needs of disabled persons; or ability of certain apartments to meet the needs of persons with different types & degrees of disability.
4. **Administrator** - The chief executive officer of the Boston Housing Authority.
5. **Alteration** - any change in an apartment, building or common area or to its permanent fixtures or equipment. It does not include: normal maintenance or repairs, re-roofing, interior decoration or changes to mechanical systems.
6. **Asset Management Project**- AMP- For purposes of Asset Management HUD requires PHA's to designate a unique identifier for a development, or groupings of scattered sites or small developments, or phases of a development for purposes of implementing asset based management for HUD funded federal public housing units.
7. **Apartment** -- Residential space for the private use of a Household. The number of bedrooms contained within a BHA apartment is from 0 bedrooms (studio/efficiency) to 6 bedrooms.
8. **Applicant** - a person or household member who is not a BHA leaseholder and has submitted an application for public housing that has been accepted by the Authority and entered into its management information system with a client number assigned.
9. **Appeals** – an Applicant for admission to BHA, who is dissatisfied with a decision regarding his or her application, may request an appeal before a BHA Hearing Officer. (See 4.1.4).

10. **Applicant Information Briefing Session** – A regularly scheduled meeting (or other form of communication that may be designated by the BHA) whose purpose is to: provide prospective Applicants with an explanation of the process for Application and admission to BHA Public Housing; make Applicants aware of the Priorities, Preferences and housing options available to them as a BHA Applicant; familiarize Applicants with the Preliminary Application and Related Forms; bring staff in contact with Applicants to assist Applicants in completing the application process (See Chapter 3).
11. **Area Median Income (AMI)** – The median income of the greater Boston area as determined by HUD.
12. **Assets** - Assets generally means cash which is accessible to a person including checking and savings accounts, stocks, bonds, equity in real property, and the cash value of life insurance policies, but does not include the value of tangible personal property such as furniture, automobiles and household effects. (Certain types of tangible personal property are included, such as coin collections or jewelry, but essential tangible personal property reasonably necessary for every day living, such as furniture and automobiles, are not included. For included real or personal property holdings, the value of the asset is the cash amount that would remain if the resident converted the asset to cash and deducted any outstanding mortgages, liens or selling expenses.)
13. **Boston Resident** - A person whose last permanent address was within the City of Boston or a person who is a resident and presently domiciled in the City of Boston at the time of application and at the time of determination of eligibility and qualification, or a person who is employed or about to be employed in the City of Boston as verified by the BHA. A person with a temporary residence in the City of Boston with relatives or friends is not a resident unless the person's last residence or domicile was in the City of Boston. The burden of establishing Boston residency is on the Applicant.
14. **Co-Head of Household** - a person who with the Head of Household assumes responsibility and accountability for the Household and signs the lease. The Co-Head of Household is equal to and has the same rights and responsibilities as the Head of Household. This shall include a spouse even if not designated as Co-Head of Household on the application or lease.
15. **Department of Housing and Community Development (DHCD)** -- the agency responsible for the oversight and monitoring of the State's public housing program.
16. **Dependent** - A member of the Household, other than head, co-head, sole member, foster child, or Personal Care Attendant or Live-in Aide, who is under 18 years of age, a Disabled Person, or a full-time student.



17. **Development** - Refers to low income housing developed, acquired or rehabilitated by BHA under the U.S. Housing Act of 1937 (other than Section 8) for which there is an annual contributions contract (ACC) between the U.S. Department of Housing & Urban Development or one or more public housing apartments developed and/or administered by the BHA with a separate contract for financial assistance with the Massachusetts Department of Housing Community Development under the Chapter 705, Chapter 200 or Chapter 667 program.

18. **Disabled Person** –

For program eligibility, a person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423) or defined as “handicapped persons of low income” in M.G.L. C121B § I and in 760 CMR 5.07.

For Eligibility in State-Aided Housing – A person who has been determined to have an impairment which is expected to be of long continued and indefinite duration, which substantially impedes the ability to live independently in conventional housing and which is of such nature that such ability could be improved by more suitable housing conditions.

For Eligibility in Federally-Assisted Housing – A person who

- 1) has a disability defined as an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or, in the case of a person who has attained the age of 55 and is blind, the inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he or she has previously engaged with some regularity and over a substantial period of time, or
- 2) Has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration, which substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions, or
- 3) Has a developmental disability which is a severe, chronic disability of an individual 5 years or older which is attributable to a mental or physical impairment or combination of impairments and which is manifested before the age of 22 and is likely to continue indefinitely and which results in substantial functional limitations in three or more of the following areas of major life activity (self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living and economic self-

sufficiency), and which reflects the individual's need for assistance that is lifelong or of extended duration and is individually planned and coordinated.

Such term shall not exclude persons who have the disease acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS

B. For all purposes other than Eligibility, a person with a physical or mental impairment which substantially limits one or more life activities, or has a record of such impairment, or is regarded as having such an impairment.

- *No individual shall be considered a person with a disability solely because of drug or alcohol dependence.*

19. **Elderly Household** - A Household whose Head of Household, Co-Head of Household, or spouse (or sole member) is an Elderly Person.
20. **Elderly Person** - means a person who is at least 62 years of age. For state assisted housing a person who is at least 60 years of age.
21. **Eligible** – means a person or household that has met the three threshold requirements pursuant to Section 5.1.2 for Preliminary Eligibility.
22. **Eligible Household** – A household who is determined Eligible for residence in public housing assisted under the United States Housing Act of 1937 (42 U.S.C. 1437) or under M.G.L. c121B and provisions of this Policy.
23. **Eligible Non-Citizen Status (for Federal Program only)** - The admittance of a Non-Citizen to the United States under one of the following categories:
  - A Non-Citizen lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20), excluding, among others, Non-Citizen visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;
  - A Non-Citizen who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) [8 USCS § 1259];

- A Non-Citizen who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);
  - A Non-Citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));
  - A Non-Citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h));
  - A Non-Citizen lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act [8 USCS § 1255a].
  - Lawfully admitted for temporary or permanent residence (amnesty granted under Immigration and Naturalization Act Section 245A).
24. **Emancipated Minor** – Minor (under 18 years of age) with a child (or children) or who has otherwise established him/herself as a non-dependent individual.
25. **Fair Housing Act** – Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 *et seq.*)
26. **Family** – A single person, two or more persons regularly living together, related by blood, marriage, adoption, guardianship or operation of law; or who are not so related, but share income and resources and intend to live together in BHA housing. Other persons, including foster children, Personal Care Attendants or Live-in Aides, and members temporarily absent (including children temporarily assigned to foster care<sup>14</sup>), may be considered a part of the Household group if they are living or will live regularly with the Household. For the federal housing programs as defined by the Department of Housing and Urban Development (HUD) at 24 CFR 5.403.
27. **Federally-assisted Housing** – For purposes of this policy, housing assisted under the U.S. Housing Act as defined in 42 USC 1437a and following provisions.

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<sup>14</sup> See 24 CFR 5.403.

28. **Full-time Student** -

For Eligibility in Federally-assisted Housing A person who is carrying a subject load which is considered full-time for day students under the standards and practices of the educational institution attended. Educational institution shall include but not be limited to: college, university, secondary school, vocational school or trade school.

For Eligibility in State-assisted Housing- a household member between the ages of 18 and 25, who is the dependent of another household member and who is enrolled in and attending an accredited educational or vocational institution and is carrying a course load that is considered full-time for day students under the standards and practices of the institution. Full-time student status shall remain in effect as long as the individual carries a full-time student course load in pursuit of a bachelor's degree, an associate's degree, or a diploma from an accredited institution or a certificate from an accredited vocational program (excluding apprenticeship programs). In no event shall full-time student status last longer than the length of time normally required for day students to complete the required course of study.

29. **Good Cause** - A set of standards used by the Authority to determine the need for and special offer of housing in order to avoid a verifiable hardship. The basis for the special offer must be reliably documented and cannot result in discrimination on the basis of race, color, sex, sexual orientation, gender identity, ethnicity, religion or national origin or handicap or disability.

30. **Grievance** –1. An allegation, by a tenant or a remaining Household Member of a tenant's household, that the BHA or a BHA employee has acted or failed to act in accordance with the tenant's lease or any statute, regulation, or rule regarding the conditions of tenancy and that the alleged action or failure to act has adversely affected the status, rights, duties, or welfare of the tenant or a Household Member; or 2. An appeal by a data subject pursuant to 760 CMR 8.00. The meaning of a statute, regulation or rule shall not be the subject of a grievance. A dispute between a tenant and another tenant or Household Member, in which the BHA is not involved, shall not be the subject of a grievance. A grievance shall not be filed by a tenant on behalf of another tenant or any Household Member of another tenant.

31. **Head of Household** - means the member who assumes responsibility and accountability for the Household and signs the lease.

32. **Household** – All persons residing in an apartment who are listed on the apartment's lease as household members or Tenant Status Review (T.S.R.); and may include an approved PCA OR LIVE-IN AIDE, who resides in the apartment.

33. **Household Member** - A person residing in an apartment who is listed on the apartment's lease as a household members or Tenant Status Review (T.S.R.); and may include an approved PCA OR LIVE-IN AIDE, who resides in the apartment.
34. **Home Visit** - a visit by BHA Occupancy Department staff or contractor to the home of an Applicant pursuant to the provisions of this policy.
35. **HUD (U.S. Department of Housing & Urban Development)** - the Federal department responsible for the public housing program as provided in the 1937 Housing Act. HUD provides operating subsidies to the BHA through an Annual Contributions Contract.
36. **Imputed Welfare Income**- (In Federal Developments Only) The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for the purposes of determining rent.
37. **Last Permanent Residence**: the last main or the only residence (home) at a fixed address a "Dwelling" or "rental dwelling." This means a unit that was owned or rented by or to one or more tenants and landlord authorized household member(s) as occupants for use as a permanent residence under a lease or tenancy at will. The term does not include a room rented to overnight guests or doubled-up guests/visitors.
38. **Lease** -- A written agreement between the BHA and Head or Co-Head of Household for the occupancy of an apartment.
39. **Minor** - a person less than 18 years of age. An unborn child will not be considered to be a minor (Also see the definition for Dependent and Emancipated Minor).
40. **Mitigating Circumstances** - Circumstances which would tend to lessen the negative impact of an unsuitable housing history or unsuitable behavior and which may overcome or outweigh negative information gathered in the screening process about an Applicant or Transfer Applicant.
41. **Mixed Family** – A family whose members include those with citizenship or Eligible Non-Citizen Status, and those without citizenship or Eligible Non-Citizen Status.
42. **National** – A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

43. **Non-Citizen** – A person who is neither a citizen nor National of the United States.
44. **Occupancy Department** - the department within BHA that is responsible for the admissions and screening process. The department has responsibility for marketing, intake, waiting list management, screening, and making offers of public housing apartments to qualified Applicants and transfer applicants. The Occupancy Department administers the Admissions and Continued Occupancy Policy including eligibility for resident transfers.
45. **Overcrowded** - a condition of occupancy where too more people reside in an apartment given its bedroom size and applicable standards
46. **Overhoused** - a condition of occupancy where too few people reside in an apartment according to BHA standards for occupancy.
47. **Personal Care Attendant (PCA) or Live-In Aide** - A person that regularly provides care and support and who may or may not reside with an Elderly, Handicapped, or Disabled person or persons. (See 5.5 for full definition)
48. **Police Officer** – For the purposes of this policy, a police officer is defined as a person to be employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency is a police officer.
49. **Preference** – BHA gives Applicants Preference if they are veterans, Boston Residents, or non-elderly disabled with a Household. Preference points are cumulative and are added to Priority points (if any) to determine an Applicant's position on the BHA waiting list. Specific Preference definitions and point information can be found in **Chapter 4** of this policy.
50. **Priority** – A defined housing related situation that necessitates a Household's relocation. The BHA gives points to Applicants with Priority that ranks those Applicants higher on the waiting list than Applicants without Priority. An Applicant can qualify for only one Priority at any given time. Certain priorities are given more points than others. Specific Priority definitions and point information can be found in Chapter 4 of this policy.
51. **Qualified** – An Applicant who is Eligible and has been approved for admission to BHA housing after meeting all requirements of the BHA Screening Policy.
52. **Qualified Healthcare Provider** - a medical or rehabilitation professional or expert, **OR** non-medical service agency whose function is to provide services to the disabled.

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

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

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

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

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

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

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

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

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

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62. **Transitional Housing Assistance** - As defined by the Department of Housing and Urban Development (HUD), Transitional housing means a project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children

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63. **Transitional Housing Assistance-** As defined by the Department of Housing and Community Development's (DHCD) statutory regulations for the state funded properties.

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64. **Unauthorized Occupants** - Individuals or families who are staying in an apartment leased by a BHA resident who: (a) have not been approved in writing by the BHA as additions to the Household; (b) have applied but have not yet been approved by the BHA as additions to the Household; (c) are staying beyond the limits established in the lease for temporary visitors.

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65. **Under housed** - a condition of occupancy where too many people reside in an apartment according to BHA standards for occupancy.

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66. **Uniform Federal Accessibility Standards** - Standards for the design, construction, and alteration of publicly owned residential structures to insure that mobility and/or sensory impaired persons will have ready access to and use of such structures.

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67. **Use and Occupancy Agreement** - an agreement between BHA and the occupant of a BHA apartment whereby the occupant is entitled to use and occupy the apartment under specified conditions but is not entitled to reside as a tenant under a BHA lease or otherwise.

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68. **Utilities** - Utilities means water, electricity, gas, other heating, refrigeration and cooking fuels, and sewerage services. Telephone service, laundry, and cable service are not included as utilities.

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69. **Vacancy Action Form** – Document by which BHA staff report the status of a vacated apartment (see Section 6.2.3 for status categories).

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70. **Vacate Date** – The date on which a tenant vacates, abandonment proceedings are concluded; or the tenant is evicted.

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71. **Veteran** - Anyone who is a veteran as defined in M.G.L. c4, § 7, clause 43. The word "Veteran" as used in these policies shall include the spouse, surviving spouse, Dependent parent or child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a child of a Veteran.

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72. **Veterans' Preference** – A Preference that is given to Veterans, as defined above, when applying for BHA housing.

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