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**ADMISSIONS AND CONTINUED  
OCCUPANCY POLICY (ACOP)  
FOR  
BHA PUBLIC HOUSING  
PROGRAMS**

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# CONTENTS

|                                                                               |           |
|-------------------------------------------------------------------------------|-----------|
| <b>CHAPTER 1: INTRODUCTION AND GENERAL POLICY .....</b>                       | <b>1</b>  |
| 1.1 INTRODUCTION.....                                                         | 1         |
| 1.2 STATEMENT OF NONDISCRIMINATION .....                                      | 1         |
| 1.2.1 <i>Compliance with Federal and State Laws</i> .....                     | 1         |
| 1.2.2 <i>Civil Rights and Fair Housing</i> .....                              | 1         |
| 1.2.3 <i>Fair Admissions</i> .....                                            | 2         |
| 1.2.4 <i>Reasonable Accommodations</i> .....                                  | 2         |
| 1.2.5 <i>Records of Applications for Admission and Transfer</i> .....         | 3         |
| 1.2.6 <i>Records of Apartments Offered</i> .....                              | 4         |
| 1.2.7 <i>Applicant/Transfer Applicant Appeal Procedure</i> .....              | 4         |
| 1.3 DOMESTIC VIOLENCE .....                                                   | 4         |
| 1.4 ACCESSIBILITY AND PLAIN LANGUAGE.....                                     | 6         |
| 1.4.1 <i>Accessible Facilities and Programs</i> .....                         | 6         |
| 1.4.2 <i>Plain Language Paperwork</i> .....                                   | 6         |
| 1.4.3 <i>Forms of Communication other than Plain Language Paperwork</i> ..... | 6         |
| 1.4.4 <i>English Language Ability</i> .....                                   | 6         |
| 1.5 INCOME MIXING AND DECONCENTRATION (FEDERAL ONLY) .....                    | 7         |
| 1.5.1 <i>Definitions</i> .....                                                | 7         |
| 1.5.2 <i>Income-Mixing</i> .....                                              | 8         |
| 1.5.3 <i>Deconcentration</i> .....                                            | 8         |
| 1.5.4 <i>Monitoring</i> .....                                                 | 10        |
| 1.6 CIVIL RIGHTS PROTECTION PLAN .....                                        | 10        |
| <b>CHAPTER 2: MARKETING AND OUTREACH.....</b>                                 | <b>11</b> |
| 2.1 MARKETING POLICY.....                                                     | 11        |
| 2.1.1 <i>Marketing Purposes</i> .....                                         | 11        |
| 2.2 MARKETING REQUIREMENTS .....                                              | 11        |
| 2.2.1 <i>Fair Housing</i> .....                                               | 11        |
| 2.2.2 <i>Accurate Descriptions</i> .....                                      | 11        |
| 2.2.3 <i>Plain Language</i> .....                                             | 11        |
| 2.2.4 <i>Eligibility</i> .....                                                | 11        |
| 2.2.5 <i>Reasonable Accommodations and Structural Modifications</i> .....     | 12        |
| 2.3 MARKETING AND OUTREACH STRATEGIES .....                                   | 12        |
| 2.3.1 <i>When BHA Will Market Apartments</i> .....                            | 12        |
| <b>CHAPTER 3: APPLICATION SUBMISSION .....</b>                                | <b>13</b> |
| 3.1 APPLICATION .....                                                         | 13        |
| 3.2 DEVELOPMENT CHOICE .....                                                  | 13        |
| 3.2.1 <i>Monitoring</i> .....                                                 | 14        |
| 3.2.2 <i>Remedial Action</i> .....                                            | 14        |
| 3.3 PROCESSING APPLICATIONS FOR ADMISSION.....                                | 14        |
| 3.3.1 <i>Processing</i> .....                                                 | 14        |
| 3.3.2 <i>Communication Regarding Applications</i> .....                       | 15        |
| 3.3.3 <i>Waiting List Updates</i> .....                                       | 15        |
| <b>CHAPTER 4: ESTABLISHING AND MAINTAINING WAITING LISTS .....</b>            | <b>17</b> |
| 4.1 WAITING LIST MANAGEMENT FOR STATE PUBLIC HOUSING .....                    | 17        |

|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |           |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 4.1.1 | Organization of the Waiting Lists.....                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 17        |
| 4.2   | WAITING LIST MANAGEMENT FOR FEDERAL PUBLIC HOUSING .....                                                                                                                                                                                                                                                                                                                                                                                                                                            | 18        |
| 4.2.1 | Organization of the Waiting Lists.....                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 18        |
| 4.2.2 | Opening and Closing Waiting Lists (Federal Programs Only).....                                                                                                                                                                                                                                                                                                                                                                                                                                      | 18        |
| 4.2.3 | Removal of an Application from a Waiting List (Federal Programs Only) .....                                                                                                                                                                                                                                                                                                                                                                                                                         | 19        |
| 4.3   | APPLICANT APPEALS – INFORMAL HEARINGS .....                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 21        |
| 4.3.1 | Requirements of Denial or Withdrawal Notice .....                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 21        |
| 4.3.2 | Scheduling the Informal Hearing.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 21        |
| 4.3.3 | Applicant Rights during the Informal Hearing .....                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 23        |
| 4.3.4 | Informal Hearing Decisions.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 24        |
| 4.4   | PRIORITIES AND PREFERENCES FOR FEDERAL PROGRAMS.....                                                                                                                                                                                                                                                                                                                                                                                                                                                | 26        |
| 4.4.1 | Definitions .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 26        |
| 4.4.2 | Points for Priorities and Preferences .....                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 26        |
| 4.5   | PRIORITY CATEGORIES AND VERIFICATION REQUIREMENTS .....                                                                                                                                                                                                                                                                                                                                                                                                                                             | 29        |
| 4.5.1 | Transfers.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 29        |
| 4.5.2 | Supported Housing Programs .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 29        |
| 4.5.3 | Super Priority .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 29        |
| 4.5.4 | Priority 1 for Federal Housing Programs (“P1”) .....                                                                                                                                                                                                                                                                                                                                                                                                                                                | 29        |
| 4.5.5 | Priority 1 Displaced Categories .....                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 30        |
| 4.5.6 | Priority 1 Homeless for Non-State Program.....                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 35        |
| 4.5.7 | Standard (no Priority) Applicants.....                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 36        |
| 4.5.8 | Housing Situation for State Programs.....                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 37        |
| 4.6   | ADMISSION PREFERENCE .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 38        |
| 4.6.1 | Designated Housing Preference.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 38        |
| 4.6.2 | <b>Single Elderly and Disabled Preference</b> .....                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 40        |
|       | <i>The Boston Housing Authority has an Admissions preference for a single person Applicant, who is Elderly or Disabled over other single persons. An Applicant will be given preference over an Applicant who is a Single Person who is not an Elderly or Disabled person within each waiting list Priority category. Applicants who require a wheelchair will not receive these preference points since they shall be matched to wheelchair accessible units through the offers process.</i> ..... | 40        |
| 4.6.3 | <b>Veterans Preference</b> .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 40        |
| 4.6.4 | Displaced Boston Tenant Preference.....                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 41        |
|       | <i>The BHA shall give two (2) Preference points to an Applicant who was displaced from a unit within the City of Boston.</i> .....                                                                                                                                                                                                                                                                                                                                                                  | 41        |
| 4.7   | APARTMENT FEATURES CONSIDERED .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 41        |
| 4.8   | CHANGES IN PRIORITY AND/OR PREFERENCE .....                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 42        |
| 4.9   | APPLICANT FAMILY BREAK-UP POLICY.....                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 42        |
| 4.9.1 | Split between Head and Co-Head of Household.....                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 42        |
| 4.9.2 | Applicant Family Break Up for Minor Households.....                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 43        |
|       | <b>CHAPTER 5: DETERMINATION OF ELIGIBILITY .....</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>45</b> |
| 5.1   | ELIGIBILITY .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 45        |
| 5.1.1 | Threshold Eligibility Requirements.....                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 45        |
| 5.1.2 | Eligibility Determination.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 46        |
| 5.2   | VERIFICATION GENERALLY .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 47        |
| 5.2.1 | Documentation .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 48        |
| 5.2.2 | Applicant Release of Information.....                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 48        |
| 5.2.3 | Verification Order of Preference for Federal Programs.....                                                                                                                                                                                                                                                                                                                                                                                                                                          | 48        |
| 5.2.4 | Verification Timelines.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 49        |
| 5.2.5 | BHA Right to Request Additional Verification.....                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 49        |
| 5.3   | VERIFICATION OF FAMILY COMPOSITION .....                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 50        |
| 5.3.1 | Photo identification.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 50        |
| 5.3.2 | Proof of Birth .....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 50        |

|                                   |                                                                                           |    |
|-----------------------------------|-------------------------------------------------------------------------------------------|----|
| 5.3.3                             | <i>Proof of Relationships</i>                                                             | 51 |
| 5.3.4                             | <i>Social Security Numbers</i>                                                            | 51 |
| 5.3.5                             | <i>Verification of Student Status</i>                                                     | 51 |
| 5.3.6                             | <i>Verification of Disability</i>                                                         | 52 |
| 5.3.7                             | <i>Verification of Need for Special Unit Features</i>                                     | 53 |
| 5.3.8                             | <i>Verification of Citizenship Status (Federal Programs Only)</i>                         | 53 |
| 5.4                               | VERIFICATION OF INCOME AND DEDUCTIONS                                                     | 56 |
| 5.4.1                             | <i>Income from Employment</i>                                                             | 57 |
| 5.4.2                             | <i>Income from governmental agencies</i>                                                  | 57 |
| 5.4.3                             | <i>Income from Retirement Accounts</i>                                                    | 57 |
| 5.4.4                             | <i>Income from the operation of a business or profession</i>                              | 57 |
| 5.4.5                             | <i>Zero Income</i>                                                                        | 58 |
| 5.4.6                             | <i>Child Support, alimony, regular gifts and gambling proceeds</i>                        | 58 |
| 5.4.7                             | <i>Income from Assets</i>                                                                 | 58 |
| 5.4.8                             | <i>Verification of childcare expenses or care of disabled household member deductions</i> | 59 |
| 5.4.9                             | <i>Verification of Medical Deductions</i>                                                 | 59 |
| 5.4.10                            | <i>Permissive Deduction in Excess of Monthly Stipend</i>                                  | 60 |
| 5.4.11                            | <i>Income Exclusions</i>                                                                  | 60 |
| 5.5                               | SCREENING FOR SUITABILITY                                                                 | 60 |
| 5.5.1                             | <i>Purpose of Suitability Screening</i>                                                   | 60 |
| 5.5.2                             | <i>Housing History</i>                                                                    | 61 |
| 5.5.3                             | <i>Criminal History</i>                                                                   | 61 |
| 5.5.4                             | <i>Evaluation of Screening Criteria</i>                                                   | 65 |
| 5.5.5                             | <i>Rehabilitation and Mitigating Circumstances</i>                                        | 66 |
| 5.5.6                             | <i>Outcome of Screening Process</i>                                                       | 66 |
| 5.6                               | PERSONAL CARE ATTENDANTS / LIVE-IN AIDES                                                  | 67 |
| 5.6.1                             | <i>Definition for Federal Programs</i>                                                    | 67 |
| 5.6.2                             | <i>Policy on Addition of a licensed PCA or Live-in Aide to the Household</i>              | 68 |
| CHAPTER 6: ASSIGNMENTS AND OFFERS |                                                                                           | 69 |
| 6.1                               | APARTMENT OCCUPANCY GUIDELINES                                                            | 69 |
| 6.1.1                             | <i>Occupation by Households of Appropriate Size</i>                                       | 69 |
| 6.1.2                             | <i>Table of Occupancy Standards</i>                                                       | 69 |
| 6.1.3                             | <i>Apartment Assignments</i>                                                              | 69 |
| 6.2                               | OFFERS                                                                                    | 73 |
| 6.2.1                             | <i>Allocation of Offers to Different Applicant Types</i>                                  | 73 |
| 6.2.2                             | <i>Offers of Accessible Apartments</i>                                                    | 73 |
| 6.2.3                             | <i>Acceptance or Rejection of an Offer</i>                                                | 76 |
| 6.2.4                             | <i>Good Cause or Reasonable Accommodation</i>                                             | 79 |
| CHAPTER 7: TRANSFERS              |                                                                                           | 82 |
| 7.1                               | TRANSFER CATEGORIES                                                                       | 82 |
| 7.1.1                             | <i>Administrative Transfer</i>                                                            | 82 |
| 7.1.2                             | <i>Special Circumstances</i>                                                              | 84 |
| 7.2                               | TRANSFER PROCESS                                                                          | 85 |
| 7.2.1                             | <i>Resident Initiated Transfer</i>                                                        | 85 |
| 7.2.2                             | <i>BHA Initiated Transfer</i>                                                             | 85 |
| 7.2.3                             | <i>Transfer Review Process</i>                                                            | 85 |
| 7.3                               | GOOD CAUSE OR REASONABLE ACCOMMODATION                                                    | 86 |
| 7.4                               | VERIFICATION OF REASON FOR TRANSFER                                                       | 86 |
| 7.5                               | DENIAL OF TRANSFER REQUESTS                                                               | 87 |
| 7.6                               | TRANSFERS ON A WAITING LIST/AMP                                                           | 87 |
| 7.7                               | ON-SITE UNDER OR OVER HOUSED TRANSFER APARTMENT ASSIGNMENTS                               | 87 |
| 7.8                               | TRANSFER AT RESIDENTS EXPENSE                                                             | 87 |

|                   |                                                                                                           |           |
|-------------------|-----------------------------------------------------------------------------------------------------------|-----------|
| 7.9               | TRANSFER WAIVER/REASONABLE ACCOMMODATION .....                                                            | 88        |
| 7.10              | CONTINUED OCCUPANCY FOR VETERANS .....                                                                    | 88        |
| 7.11              | REJECTION OF APPROVED TRANSFER BY RESIDENT.....                                                           | 88        |
| 7.11.1            | <i>Special Circumstances and Administrative Transfers.....</i>                                            | 88        |
| 7.11.2            | <i>On-Site Under or Over Housed Transfers.....</i>                                                        | 89        |
| <b>CHAPTER 8:</b> | <b>RESIDUAL TENANCY POLICY .....</b>                                                                      | <b>90</b> |
| 8.1               | QUALIFICATIONS FOR RESIDUAL TENANCY .....                                                                 | 90        |
| 8.2               | DIVORCE, SEPARATION OR PROTECTIVE ORDER .....                                                             | 91        |
| 8.3               | RESIDUAL TENANCY AND INCOME .....                                                                         | 91        |
| 8.4               | RENT DURING USE AND OCCUPANCY PERIOD.....                                                                 | 91        |
| 8.5               | LIMITATIONS OF POLICY.....                                                                                | 91        |
| 8.6               | RESIDUAL TENANCY – RIGHT OF APPEAL .....                                                                  | 92        |
| <b>CHAPTER 9:</b> | <b>OTHER OCCUPANCY PROVISIONS.....</b>                                                                    | <b>93</b> |
| 9.1               | LEASE PROVISIONS .....                                                                                    | 93        |
| 9.1.1             | <i>Leasing of Apartments_.....</i>                                                                        | 93        |
|                   | <i>Federal Programs .....</i>                                                                             | 93        |
| 9.1.2             | <i>Length of Lease .....</i>                                                                              | 93        |
| 9.1.3             | <i>Additions to the Lease.....</i>                                                                        | 94        |
| 9.1.4             | <i>Other Occupancy Provisions .....</i>                                                                   | 96        |
| 9.2               | ANNUAL RECERTIFICATIONS .....                                                                             | 97        |
| 9.2.1             | <i>Annual Recertification Requirement .....</i>                                                           | 97        |
| 9.2.2             | <i>Responding to BHA Requests for Information.....</i>                                                    | 97        |
| 9.2.3             | <i>Fraud or Misrepresentation.....</i>                                                                    | 97        |
| 9.2.4             | <i>Imputed Welfare Income.....</i>                                                                        | 97        |
| 9.2.5             | <i>Zero Income Family.....</i>                                                                            | 98        |
| 9.2.6             | <i>Effective Date of Rent Share Change.....</i>                                                           | 98        |
| 9.2.7             | <i>Notice of Rent Share Change .....</i>                                                                  | 99        |
| 9.2.8             | <i>Choice of Rent Calculation Method .....</i>                                                            | 99        |
| 9.3.1             | <i>Circumstances Requiring an Interim Recertification (Federal Programs) .....</i>                        | 101       |
| 9.4               | OVER-INCOME .....                                                                                         | 103       |
| 9.5               | USE OF HUD’S ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM (FEDERAL ONLY) .....                             | 105       |
| 9.5.1             | <i>Required Use of EIV.....</i>                                                                           | 105       |
| 9.6               | SELF-SUFFICIENCY INCOME EXCLUSIONS .....                                                                  | 108       |
| 9.6.1             | <i>Employment After Unemployment.....</i>                                                                 | 109       |
| 9.6.2             | <i>Income Increase After Training.....</i>                                                                | 109       |
| 9.6.3             | <i>Income Increase After Receiving Welfare.....</i>                                                       | 109       |
| 9.7               | COMMUNITY SERVICE AND ECONOMIC SELF-SUFFICIENCY POLICY (APPLICABLE TO FEDERAL DEVELOPMENTS/AMPs ONLY) 109 |           |
| 9.7.1             | <i>Definitions.....</i>                                                                                   | 110       |
| 9.7.2             | <i>Notification of Residents .....</i>                                                                    | 110       |
| 9.7.3             | <i>Exemptions .....</i>                                                                                   | 111       |
| 9.7.4             | <i>Initial Determination of Exemption.....</i>                                                            | 112       |
| 9.7.5             | <i>Continuing Determination of Exemption and Compliance.....</i>                                          | 113       |
| 9.7.6             | <i>Non-Compliance.....</i>                                                                                | 114       |
| 9.7.7             | <i>Documentation .....</i>                                                                                | 115       |
| 9.7.8             | <i>Grievance Procedure .....</i>                                                                          | 115       |
| 9.7.9             | <i>Prohibition Against the Replacement of Employees.....</i>                                              | 115       |
| 9.7.10            | <i>Third Party Coordinating .....</i>                                                                     | 116       |
| 9.8               | INSPECTIONS.....                                                                                          | 116       |
| 9.8.1             | <i>Pre-Occupancy Inspections.....</i>                                                                     | 116       |
| 9.8.2             | <i>Annual Inspections.....</i>                                                                            | 116       |

|                                                  |                                                                              |            |
|--------------------------------------------------|------------------------------------------------------------------------------|------------|
| 9.8.3                                            | <i>Move-Out Inspection</i> .....                                             | 117        |
| 9.9                                              | LEASE TERMINATION PROCEDURES .....                                           | 117        |
| 9.9.1                                            | <i>Recordkeeping Requirements for Lease Termination</i> .....                | 117        |
| <b>CHAPTER 10: MISCELLANEOUS PROVISIONS.....</b> |                                                                              | <b>119</b> |
| 10.1                                             | DEPROGRAMMING APARTMENTS .....                                               | 119        |
| 10.2                                             | SUPPORTED HOUSING PROGRAMS .....                                             | 119        |
| 10.2.1                                           | <i>Social Service Agreements</i> .....                                       | 119        |
| 10.2.2                                           | <i>Apartment/Development/AMP Designations</i> .....                          | 119        |
| 10.3                                             | DESIGNATED HOUSING PROGRAM.....                                              | 119        |
| 10.3.1                                           | <i>Plan Description</i> .....                                                | 120        |
| 10.3.2                                           | <i>Development/AMP Designation</i> .....                                     | 120        |
| 10.4                                             | RESIDENT CUSTODIANS AND SPECIAL ASSIGNMENT LABORERS.....                     | 120        |
| 10.4.1                                           | <i>Rules Governing Residency</i> .....                                       | 120        |
| 10.4.2                                           | <i>Admission as Residents</i> .....                                          | 121        |
| 10.5                                             | OCCUPANCY BY POLICE OFFICERS (FEDERAL DEVELOPMENTS/AMPs ONLY) .....          | 121        |
| 10.5.1                                           | <i>Definition of Police Officer</i> .....                                    | 121        |
| 10.5.2                                           | <i>Purpose of Policy</i> .....                                               | 121        |
| 10.5.3                                           | <i>Terms of Tenancy for Police Officers</i> .....                            | 121        |
| 10.5.4                                           | <i>Apartments to be Occupied by Police Officers</i> .....                    | 122        |
| 10.6                                             | PET POLICY.....                                                              | 122        |
| 10.7                                             | POLICY WAIVERS .....                                                         | 123        |
| 10.7.1                                           | <i>ACOP Waivers</i> .....                                                    | 123        |
| 10.7.2                                           | <i>Waiver of State Regulation</i> .....                                      | 123        |
| 10.8                                             | NON-SMOKING POLICY .....                                                     | 123        |
| <b>CHAPTER 11: DEFINITIONS.....</b>              |                                                                              | <b>123</b> |
|                                                  | <i>Accessible Route</i> .....                                                | 124        |
|                                                  | <i>Accessible Apartment</i> .....                                            | 124        |
|                                                  | <i>Adaptable</i> .....                                                       | 124        |
|                                                  | <i>Administrator</i> .....                                                   | 124        |
|                                                  | <i>Alteration</i> .....                                                      | 124        |
|                                                  | <i>Asset Management Project (AMP)</i> .....                                  | 124        |
|                                                  | <i>Apartment</i> .....                                                       | 124        |
|                                                  | <i>Applicant</i> .....                                                       | 125        |
|                                                  | <i>Appeals</i> .....                                                         | 125        |
|                                                  | <i>Applicant Information Briefing Session</i> .....                          | 125        |
|                                                  | <i>Area Median Income (AMI)</i> .....                                        | 125        |
|                                                  | <i>Assets</i> .....                                                          | 125        |
|                                                  | <i>Boston Resident</i> .....                                                 | 125        |
|                                                  | <i>CHAMP</i> .....                                                           | 126        |
|                                                  | <i>Co-Head of Household</i> .....                                            | 126        |
|                                                  | <i>Executive Office of Housing and Livable Communities EOHLC)</i> .....      | 126        |
|                                                  | <i>Dependent</i> .....                                                       | 126        |
|                                                  | <i>Development</i> .....                                                     | 126        |
|                                                  | <i>Disabled Person</i> .....                                                 | 127        |
|                                                  | <i>Disabled Person (For Eligibility in State-Aided Housing)</i> .....        | 127        |
|                                                  | <i>Disabled Person (For Eligibility in Federally-Assisted Housing)</i> ..... | 127        |
|                                                  | <i>Elderly Household</i> .....                                               | 128        |
|                                                  | <i>Elderly Person</i> .....                                                  | 128        |
|                                                  | <i>Eligible</i> .....                                                        | 128        |
|                                                  | <i>Eligible Household</i> .....                                              | 128        |
|                                                  | <i>Eligible Non-Citizen Status</i> .....                                     | 129        |

|                                                                       |     |
|-----------------------------------------------------------------------|-----|
| <i>Emancipated Minor</i> .....                                        | 130 |
| <i>Fair Housing Act</i> .....                                         | 130 |
| <i>Family</i> .....                                                   | 130 |
| <i>Federally-assisted Housing</i> .....                               | 131 |
| <i>Full-time Student</i> .....                                        | 131 |
| <i>Good Cause</i> .....                                               | 131 |
| <i>Good Standing</i> .....                                            | 132 |
| <i>Grievance</i> .....                                                | 132 |
| <i>Head of Household</i> .....                                        | 132 |
| <i>Health and Medical Expenses</i> .....                              | 132 |
| <i>Household</i> .....                                                | 133 |
| <i>Household Member</i> .....                                         | 133 |
| <i>Home Visit</i> .....                                               | 133 |
| <i>HUD (U.S. Department of Housing &amp; Urban Development)</i> ..... | 133 |
| <i>Imputed Welfare Income</i> .....                                   | 133 |
| <i>Last Permanent Residence</i> .....                                 | 133 |
| <i>Lease</i> .....                                                    | 133 |
| <i>Minor</i> .....                                                    | 133 |
| <i>Mitigating Circumstances</i> .....                                 | 133 |
| <i>Mixed Family</i> .....                                             | 134 |
| <i>National</i> .....                                                 | 134 |
| <i>Near-Elderly Family</i> .....                                      | 134 |
| <i>Non-Citizen</i> .....                                              | 134 |
| <i>Admissions Department</i> .....                                    | 134 |
| <i>Overcrowded</i> .....                                              | 134 |
| <i>Over-housed</i> .....                                              | 134 |
| <i>Personal Care Attendant (PCA)</i> .....                            | 134 |
| <i>Police Officer</i> .....                                           | 134 |
| <i>Preference</i> .....                                               | 135 |
| <i>Priority</i> .....                                                 | 135 |
| <i>Qualified</i> .....                                                | 135 |
| <i>Qualified Healthcare Provider</i> .....                            | 135 |
| <i>Rapid Re-Housing Assistance</i> .....                              | 135 |
| <i>Reasonable Accommodation</i> .....                                 | 135 |
| <i>Reasonable Modification</i> .....                                  | 136 |
| <i>Residual Tenancy Applicant</i> .....                               | 136 |
| <i>Residual Tenant</i> .....                                          | 137 |
| <i>Non-Smoking</i> .....                                              | 137 |
| <i>State-Aided Housing</i> .....                                      | 137 |
| <i>Temporary Housing</i> .....                                        | 137 |
| <i>Transitional Housing Assistance</i> .....                          | 137 |
| <i>Transitional Housing Assistance</i> .....                          | 137 |
| <i>Unauthorized Occupants</i> .....                                   | 137 |
| <i>Under-housed</i> .....                                             | 138 |
| <i>Uniform Federal Accessibility Standards</i> .....                  | 138 |
| <i>Use and Occupancy Agreement</i> .....                              | 138 |
| <i>Utilities</i> .....                                                | 138 |
| <i>Vacancy Action Form</i> .....                                      | 138 |
| <i>Vacate Date</i> .....                                              | 138 |
| <i>Veteran</i> .....                                                  | 138 |
| <i>Veterans' Preference</i> .....                                     | 138 |



# CHAPTER 1: INTRODUCTION AND GENERAL 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 has additional housing units within its portfolio. Application information for those sites is on the BHA website.

## 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>

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

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>

- (a) Deny to any Household the opportunity to apply for housing, or deny to any qualified Applicant the opportunity to lease housing suitable to their needs;
- (b) Provide housing which is different from that provided others except as required or permitted by law and in accordance with this Policy;
- (c) Subject any person to segregation or disparate treatment;
- (d) Restrict a person's access to any benefit enjoyed by others in connection with the housing program;
- (e) Treat a person differently in determining eligibility or other requirements for admission;
- (f) Deny a person access to the same level of services available to other similarly situated individuals; or
- (g) 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 where the 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 Policy**.

- (a) 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.

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

(b) 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.

(c) 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.

(d) 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, Admissions 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.

#### 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:

- (a) Date and time of receipt
- (b) The Applicant's choice(s) of development(s)
- (c) The determination of the BHA as to eligibility or non-eligibility of the Applicant or Resident
- (d) Where eligible, the apartment size for which eligible.
- (e) Where eligible the Priority and/or Preference category granted, if any and the date such eligibility is granted.
- (f) Race of Household Members (for statistical purposes only)
- (g) Status as a Disabled Household or Household Member
- (h) Name(s) of Household Member(s)
- (i) Address of Household including mailing address

(j) 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 their 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 and transfer applicants are entitled to a hearing pursuant to BHA's Tenant Grievance Procedures.

### 1.3 Domestic Violence

It is the policy of BHA to assist victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault who are otherwise eligible for the BHA Housing Programs, to access and retain safe and affordable housing. The BHA follows the provisions listed below and those in the BHA Violence Against Women Act ("VAWA") Policy when considering the denial or termination of assistance of a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault. See also BHA VAWA Policy.

(a) That an Applicant or Participant is or has been a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, is not an appropriate basis for denial of program assistance or for denial of admission, if the Applicant otherwise qualifies for assistance in accordance with this plan.

- i. (b) An incident or incidents of actual or threatened Domestic Violence, Dating Violence, Stalking, or Sexual Assault will not be construed as a serious or repeated violation of the Lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

(c) Criminal Activity directly relating to Domestic Violence, Dating Violence, Stalking, or Sexual Assault, engaged in by a member of a tenant's household or any guest or another person under the household member's control shall not be cause for termination of assistance, tenancy or occupancy rights if the tenant or an immediate member of the tenant's Family is the victim, or threatened victim of that Domestic Violence, Dating Violence, Stalking, or Sexual Assault.

(i) Notwithstanding clause (c), the BHA may bifurcate a Lease under this section, in order to evict, remove or terminate assistance to any individual who is a tenant or a lawful

occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating the assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

(ii) Nothing in clause (c) may be construed to limit the authority of the BHA, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the Household members.

(iii) Nothing in clause (c) limits any otherwise available authority of the BHA to evict for any violation of a Lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided the BHA does not subject an individual who is or has been a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault to a more demanding standard than other tenants in determining whether to evict or terminate.

(iv) Nothing in clause (c) may be construed to limit the authority of the BHA to evict any tenant or lawful occupant

if the BHA demonstrates an actual or imminent threat to other tenants or those employed at providing service to the property if that tenant is not evicted or the program assistance is terminated.

(d) Verification of Status as a Victim of Domestic Violence. When a Family member seeks to avoid an adverse decision by the BHA on the grounds of being the victim of Domestic Violence, Dating Violence

(1) BHA will require verification of the claimed incident or incidents.

(2) BHA will request this verification in writing.

(3) Verification must be provided within 14 business days (i.e., 14 calendar days, excluding Saturdays, Sundays, and federally recognized holidays) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

(4) The 14-day period may be extended for good cause.

The following documentation will be accepted for purposes of such verification:

(i) A HUD-approved form;

(ii) Documentation signed and attested under penalty of perjury by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the Domestic Violence, Dating Violence Stalking, or Sexual Assault, or the effects of the abuse, described in such documentation; or

(iii) A Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

(iv) Other forms of verification as deemed acceptable by the BHA.

(e) **Filing a VAWA complaint.** When a victim of Domestic Violence, Dating Violence, Stalking, Sexual Abuse, or Coercive Relationship Abuse, believes that the BHA's adverse action, towards a domestic violence victim was based upon an ongoing domestic violence related circumstances, they may file a complaint with the Office of Fair Housing and Equal Opportunity (FHEO) *here*.

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/onlinecomplain](https://www.hud.gov/program_offices/fair_housing_equal_opp/onlinecomplain)

## **1.4 Accessibility and Plain Language**

### **1.4.1 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.

### **1.4.2 Plain Language Paperwork**

Documents intended for use by Applicants and residents will be presented in accessible formats for those with vision or hearing 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, Admissions Department, or the Housing Service Center.

### **1.4.3 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 or video, 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.

### **1.4.4 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).

## **1.5 Income Mixing and Deconcentration (Federal Only)**

In accordance with the Congressional mandate in the Quality Housing and Work Responsibility Act of 1998, the Boston Housing Authority has adopted the federally required policies to provide for deconcentration of poverty and to encourage income mixing in all federal 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.

### **1.5.1 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:

#### **(a) 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.

#### **(b) 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.

#### **(c) 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.

### 1.5.2 Income-Mixing

#### **(a) Income Mixing Goals (Federal Programs Only)**

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.

To achieve and maintain a population 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.

#### **(b) Targeting Requirements**

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:

(i) 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.

(ii) 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,
- 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.

(iii) 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.

### 1.5.3 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.

#### **(a) 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.

#### **(b) Definitions**

(i) 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.

(ii) The Development average income: The average income of all Households residing in a single BHA Family Housing development.

(iii) Higher-income Development: A development in which the Development average income is above 115% of the Authority-wide average income.

(iv) Lower-income Development: A development in which the Development average income is below 85% of the Authority-wide average income.

#### **(c) 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:

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

#### 1.5.4 Monitoring

As part of the BHA's Annual Plan submission to HUD and as part of an annual report to EOHLC, 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. 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.

### 1.6 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).

## 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.

#### 2.1.1 Marketing Purposes

Marketing has two primary purposes:

- (a) to make all potential applicants aware of the housing and related services that BHA offers its residents; and
- (b) 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 and any other federal, state and local, fair housing rules or requirements.

#### 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.

#### 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 with respect to federal developments; 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.

The BHA shall widely circulate the marketing of apartments through print, and online media sources, as well as direct contact of local social service providers. Contacts shall be regularly updated and to ensure appropriate outreach.

#### **State Public Housing 760 CMR 5.04 - Marketing**

Each LHA has a continuing responsibility to ensure that households in its region of the state are aware of any availability of units and have an opportunity to apply. The LHA shall undertake a marketing effort whenever its waiting list for units is less than the number of applicants anticipated to be placed in the next 12 months.

The LHA shall undertake appropriate affirmative fair marketing efforts pursuant to 760 CMR 4.07: LHA Fair Housing Marketing Plan whenever the number of its minority tenant households and minority households on the waiting list for either family housing or elderly/handicapped housing is less than the number of households meeting its Affirmative Action Goal established pursuant to 760 CMR 5.10(3) for the respective program.

## CHAPTER 3: APPLICATION SUBMISSION

### 3.1 Application

Applicants may apply for BHA subsidized housing by applying online or by submitting a paper application form. Further instructions are detailed at [www.bostonhousing.org](http://www.bostonhousing.org).

#### **State Public Housing 760 CMR 5.05(1)-(2) – Application Procedures**

Every applicant shall use the online Common Housing Application for Massachusetts Programs (CHAMP) or other application forms approved by the Department. The application forms shall be available at all BHAs' central offices or, upon request, by mail. The BHA shall provide reasonable assistance to applicants in completing the application forms. When an applicant submits a paper application form at any LHA, the BHA shall accept the application and promptly enter the information thereon into the Statewide Online Application System.

Every application entered into the Statewide Online Application System shall receive a date and timestamp for each program at each LHA to which the application is made. Applicants may return to their online applications to view their application status and to make changes at any time. Applicants may also make changes at any LHA in person or by mail.

The BHA Waiting Lists are organized by development in the Statewide Online Application System.

### 3.2 Development Choice

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.

#### **State Public Housing 760 CMR 5.12(1)**

Any grant or denial of a Preference, or determination of ineligibility or disqualification, that is made by an LHA shall only affect the application on that LHA's waiting list for the program for which the Applicant is being considered at that LHA. For example, if an Applicant is denied from a State Public Housing Family program development, the Applicant shall be withdrawn from all Family program development waiting lists.

### 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:

- (a) Initiate affirmative marketing strategies
- (b) Provide additional applicant consultation and information
- (c) Provide additional supportive services and amenities
- (d) Target investment and capital improvements towards a development
- (e) 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.

Applicants must supply complete and necessary information for an application to be processed. BHA will notify Applicants of incomplete Applications and make an effort to assist in completion of the application.

All applications shall receive a date/ timestamp and confirmation. Applicants shall be informed 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.

### 3.3.2 Communication Regarding Applications

#### **(a) BHA to Applicants**

All communications with Applicants will be by first class mail as a default, but by other means in addition, where accepted by the Applicant, including but not limited to communication through an applicant web portal or email. Failure to respond to BHA communications may result in withdrawal of an Applicant from all waiting lists.

Email or other electronic communications shall also be used as a method of communication to supplement any communication conducted by mail.

#### **(b) 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, Preference, 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 immediately.

#### **(c) Confidentiality of File Information**

BHA maintains all applicant, resident, and participant information in accordance with federal and state privacy laws.

### 3.3.3 Waiting List Updates

For non-state programs, the BHA shall conduct waiting list updates from time to time as necessary. The purpose of a waiting list update is to determine the applicant has continued interest. Applicants will have twenty (20) calendar days from date of a waiting list update notice to respond and express continued interest and provide any other updates to their current housing status. Failure to respond to a waiting list update notice shall result in the application being denied.

#### **State Public Housing 760 CMR 5.14 – Update and Reclassification of Waiting List**

- (1) Applicants who have not contacted an LHA or logged into the Statewide Online Application System for two years shall be contacted by the Department Systems Administrator by email, and if there is no response, by first class mail.

- (a) to determine whether:
    - 1. applicant is still interested in obtaining state-aided public housing;
    - 2. the applicant's appropriate unit size or accessibility needs have changed;
    - 3. the applicant's claimed priority and preference status remain the same; and
  - (b) to advise the applicant that a failure to respond within 30 days will cause the application to be made inactive in the Statewide Online Application System resulting in the application not being processed by any LHA. Any applicant whose application is made inactive shall be notified of the same and will be restored to the waiting list(s) if the applicant contacts an LHA or logs into the Statewide Online Application System within one year after the notice. If the applicant fails to log into the Statewide Online Application System or contact an LHA within one year after the notice, then the applicant shall be given notice of removal of the application from all waiting lists and the right to request review pursuant to 760 CMR 5.13 above by any LHA to which the applicant applied.
- (2) In its contact inquiry, the Department Systems Administrator will instruct applicants to update their applications in the Statewide Online Application System or to return the update form to an LHA. An LHA that receives a paper update from an applicant shall review all updated information and promptly log in on behalf of the applicant and enter any changes made by the applicant into the Statewide Online Application System.

All Applicants subject to a waiting list update receive notice explaining the BHA's responsibilities for providing reasonable accommodations and recites examples of what a reasonable accommodation might entail.

## CHAPTER 4: ESTABLISHING AND MAINTAINING WAITING LISTS

### 4.1 Waiting List Management for State Public Housing

#### 4.1.1 Organization of the Waiting Lists

The BHA shall maintain separate waiting lists for each of its state public housing developments through the Statewide Online Application System, also known as CHAMP. The lists will be managed and eligibility will be determined in accordance with the state regulations at 760 CMR 5.00, notwithstanding any waivers requested by BHA and granted by EOHL.

Generally, when an applicant approaches the top of a waiting list, the BHA shall make a final determination of the applicant's priority, preference, eligibility and qualification. The applicant shall update the application and provide any additional information or verification required.

BHA manages the waiting lists transfers and supported housing programs outside of CHAMP, waiving certain provisions of 760 CMR 5.00 Supported Housing Program Applicants will be offered state public housing units from time to time in accordance with agreements with service providers and Chapters 7 and 10. Transfer Applicants shall receive offers to state public housing in accordance with Chapters 6 and 7.

All other Applicants shall be managed in accordance with 760 CMR 5.00.

#### 4.1.2 Denial or Removal of an Application

If the BHA determines that an applicant is ineligible for a claimed priority or preference or is ineligible for housing, it shall send written notification to the applicant in accordance with Section 4.3.

***State Public Housing 760 CMR 5.05 (3) - Determinations of Priority, Preference, Eligibility and Qualification.***

(a) When an applicant approaches the top of a waiting list for a BHA program to which the applicant has applied, the LHA shall make a final determination of the applicant's priority, preference, eligibility and qualification. The applicant shall update the application and provide any additional information or verification reasonably required by the BHA.

(b) If the LHA determines that an applicant is not eligible for a claimed priority or preference or is ineligible or unqualified for housing, it shall send written notification to the applicant of:

1. the determination;
2. the reason(s) for the determination detailing the material facts; and

3. the right to request a private conference to redetermine the applicant's priority, preference, eligibility and/or qualification pursuant to 760 CMR 5.13.

After a final determination of priority, preference, eligibility and/or qualification has been made by the LHA, that determination will govern the application only for the application to that program at that LHA in the Statewide Online Application System. If an applicant who has been removed from the waiting list reapplies for any program at that LHA, the reapplication will receive a new date and time stamp, and new final determinations shall be made on the application when the application reaches the top of the waiting list.

## 4.2 Waiting List Management for Federal Public Housing

### 4.2.1 Organization of the Waiting Lists

The BHA maintains a waiting list for each of its federally assisted 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. This explanation does not pertain to State assisted public housing, which is detailed below and in 760 CMR 5.09 (1)

Priority and Preference points are added together to determine position on each selected development / AMP 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

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.

### 4.2.2 Opening and Closing Waiting Lists (Federal Programs Only)

#### (a) Opening the Waiting List (Federal Programs Only)

The BHA will give at least two weeks advance public notice that a Family may apply for housing assistance before opening any waiting list. The notice must state where and when a Family should apply. The notice shall also state any limitations on the criteria for the type of Family that may apply. The notice shall be posted on BHA's website, circulated in a local newspaper of general circulation, by minority media, and any other means that the BHA finds suitable. The notice shall also state the time limitation of the application period. Once a waiting list is open, the BHA must accept applications from a Family for whom the waiting list is open. Any opening of the waiting list will be publicized in accordance with the Marketing and Outreach requirements of this ACOP.

If the waiting list is open for special programs, it will only be open for the purpose of accepting applications for the special programs.

#### **(b) Closing a Waiting List (Federal Programs Only)**

The BHA may close a waiting list anytime that 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 an entire waiting list or close only a portion, keeping part of the waiting list open to a certain Priority, or for any special programs.

During the period when the waiting list is closed, the BHA will not maintain a list of individuals who wish to be notified when the waiting list is reopened.

BHA will notify HUD and EOHLC prior to closing and re-opening of any waiting list as required by regulation or guidance.

#### **4.2.3 Removal of an Application from a Waiting List (Federal Programs Only)**

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. If the Applicant responds to the Withdrawal letter within 10 days after failing to respond to the initial letter of interest, the BHA will schedule a final eligibility interview with the Applicant. BHA shall consider

Circumstances that will lead to removal of an Applicant from any or all waiting lists include:

##### **(a) Voluntary Withdrawal**

The Applicant requests **in writing** that their name be removed.

##### **(b) Failure to Respond**

The Applicant is non-responsive to a BHA request to determine continued interest or to schedule an interview. BHA shall communicate with the applicant using the most

updated electronic email or physical mailing address information provided by the Applicant.

**(c) Failure to Maintain a Scheduled Appointment**

The Applicant fails to keep an appointment and fails to notify the BHA, within ten (10) days after the date of the appointment, of their inability to keep an appointment.

**(d) Failure to Supply Information**

The Applicant fails to supply requested documentation to the BHA in accordance with admissions or eligibility requirements.

**(e) Denial of Assistance**

The Applicant is denied assistance due to being ineligible for housing programs.

If the Applicant is denied assistance due to intentional misrepresentation, it 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.

**(f) Reject an Offer of Housing**

The BHA will remove an Applicant from all federal Public Housing Waiting lists if they reject an offer of Federal Public Housing without good cause.

Furthermore, the Applicant will only be eligible to re-apply after two (2) years year from the date of the most recent unit rejection.

**(g) Withdrawal Upon Becoming Housed**

When an Applicant becomes housed, the BHA will withdraw the Applicant from all BHA waiting lists for which the Applicant no longer qualifies for as a result of becoming housed.

**(h) Ineligible for Priority**

The Applicant has no eligibility for any Priority category for which the waiting list is open.

## 4.3 Applicant Appeals – Informal Hearings

### State Public Housing 760 CMR 5.13 - Review of Denial of Eligibility, Qualification, Priority or Preference Status

This section, 4.3 generally is the procedure required for state and federal applicants. The requirements in this section meet those set forth in 760 CMR 5.13

#### 4.3.1 Requirements of Denial or Withdrawal Notice

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 provides:

- (a) The reason(s) for Ineligibility, withdrawal or denial of Priority status or Preference(s) or denial of Reasonable Accommodation or Good Cause;
- (b) The 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.
- (c) The 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) Language explaining mitigating circumstances for situations including, but not limited to Domestic Violence or the disability of a household member.
- (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.
- (f) The right of an Applicant to a state aided program to request a review of the decision by the Massachusetts Executive Office of Housing and Livable Communities within twenty-one (21) calendar days of the initial decision or after a decision on reconsideration.

#### 4.3.2 Scheduling the Informal Hearing

##### **(a) When a Hearing is Scheduled**

Upon receipt of the Applicant's written request a 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 their designee for thirty (30) days beyond the initial appeal period

### **(b) Scheduling Notice Requirements**

The notice scheduling the informal hearing must contain the following information:

- (i) A letter scheduling the hearing shall be sent to the BHA Applicant’s address of record.
- (ii) The letter shall list the date, time and place of the hearing.
- (iii) The scheduling notice shall state 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.

### **(c) Reasonable Accommodation Regarding Hearing Procedures**

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 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.

### **(d) Failure to Attend the Informal Review**

The Hearing Officer will uphold the BHA decision by default if the Applicant does not attend the informal review and did not attempt to reschedule at least twenty-four (24) hours prior to the scheduled date and time.

### **(e) Compelling Circumstances Related to Missed Hearings or Late Requests**

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 or making a timely request. Requests submitted after the hearing date must be submitted within 30 days of the hearing date or deadline to request a hearing and must be supported by evidence of compelling circumstances that prevented the applicant from attending, rescheduling, or requesting a hearing in a timely manner.

When analyzing whether or not an Applicant’s reasons for requesting a late hearing are compelling, the hearing officer will consider:

- (i) 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);

- (ii) the swiftness with which the Applicant has attempted to remedy the default;
- (iii) 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.

#### 4.3.3 Applicant Rights during the Informal Hearing

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

- (a) 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.
- (b) 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.
- (c) An employee of the Authority who did not participate in the original decision must conduct the hearing.
- (d) 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 Admissions Department for reconsideration due to submission of new evidence.
- (e) The Applicant and/or their 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.
- (f) 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.

#### 4.3.4 Informal Hearing Decisions

##### **(a) Hearing Decision Notice Requirements**

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

- (i) Provide a summary of the hearing;
- (ii) Provide the decision of the hearing officer, together with findings and determination;
- (iii) Provide an explanation of the regulations and/or other applicable provisions utilized in making the decision
- (iv) Explain the rights of the Applicant to seek reconsideration by the BHA within 14 days of the decision;
- (v) Explain the rights of an Applicant to a state-aided program to request a review of the decision by the Massachusetts Executive Office of Housing and Livable Communities within 21 calendar days of the decision or decision on reconsideration pursuant to 760 CMR 5.13(4).
- (vi) All informal hearing decisions shall be made within 15 working days of the close of the hearing or the record, whichever is later.

##### **(b) Decision to Reverse BHA's Determination**

If, as a result of information presented by the Applicant at the informal hearing, the BHA reverses its decision to deny or withdraw 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).

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.

##### **(c) Decision to Uphold BHA's Determination**

If an appeal decision 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.

State program applicants may re-apply at any time.

Applicants who are found ineligible for any of the following reasons may re-apply at any time 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 Admissions 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.

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

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.

## 4.4 Priorities and Preferences for Federal Programs

An Applicant for new admission or Transfer may qualify for a Priority and/or Preference that establishes their position on the waiting list and the order to which they are screened for program eligibility.

Preference points are cumulative and are added to Priority points (if any) to determine an Applicant's position on each BHA waiting list.

### 4.4.1 Definitions

#### (a) **Priority**

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.

#### (b) **Preference**

Preference refers to points given to BHA Applicants who are veterans, Displaced Boston Residents, 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. An Applicant may qualify for more than one Preference at a time.

### 4.4.2 Points for Priorities and Preferences

(a) The BHA assigns Priority points to each Applicant for New Admission and Transfer on all Waiting Lists.

| <b>Federal Housing Program Priority</b>                                                                                       | <b>Points</b> |
|-------------------------------------------------------------------------------------------------------------------------------|---------------|
| Administrative Transfers                                                                                                      | <b>175</b>    |
| Super Priority Applicants                                                                                                     | <b>75</b>     |
| Special Circumstances Transfers                                                                                               | <b>67</b>     |
| Supported Housing Programs                                                                                                    | <b>50</b>     |
| Priority One Applicants <ul style="list-style-type: none"><li>• to Being Cost Burdened in Boston</li><li>• Homeless</li></ul> | <b>30</b>     |

|                     |   |
|---------------------|---|
| Standard Applicants | 0 |
|---------------------|---|

(b) The BHA assigns Preference points to each Applicant for New Admission.

| <b>Federal Housing Program Preference</b>                    | <b>Points</b> |
|--------------------------------------------------------------|---------------|
| Designated Housing not requiring Wheelchair Accessible units | 100           |
| Single Elderly Disabled Preference                           | 5             |
| Veteran                                                      | 3             |
| Displaced Boston Tenant                                      | 2             |

## **State Public Housing 760 CMR 5.09(1) – Priority Categories**

**Priority Categories.** The BHA shall use the following priority categories in descending order in determining the order of tenant selection:

1st Priority. Homeless due to Displacement by Natural Forces an applicant, otherwise eligible and qualified, who has been displaced by:

1. fire not due to the negligence or intentional act of applicant or a household member;
2. earthquake, flood or other natural cause; or
3. a disaster declared or otherwise formally recognized under disaster relief laws.

2nd Priority. Homeless due to Displacement by Public Action (Urban Renewal) an applicant, otherwise eligible and qualified, who will be displaced within 90 days, or has been displaced within the three years prior to application, by:

1. any low rent housing project as defined in M.G.L. c. 121B, § 1;
2. a public slum clearance or urban renewal project initiated after January 1, 1947; or
3. other public improvement.

3rd Priority. Homeless due to Displacement by Public Action (Sanitary Code Violations) an applicant, otherwise eligible and qualified, who is being displaced, or has been displaced within 90 days prior to application, by enforcement of minimum standards of fitness for human habitation established by 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II) or local ordinances, provided that:

1. neither the applicant nor a household member has caused or substantially contributed to the cause of enforcement proceedings; and
2. the applicant has pursued available ways to remedy the situation by seeking assistance through the courts or appropriate administrative or enforcement agencies.

4th Priority. Other Priority situations as described in the Housing Situation Priority Policy established by the Department pursuant to 760 CMR 5.11 [or other housing situations requested by BHA and granted as a waiver by BHA]

5th Priority. AHVP Participant an applicant, otherwise eligible and qualified, who is living in a non-permanent, transitional housing subsidized by the AHVP.

6th Priority. Transfer for Good Cause.

7th Priority. Standard Applicant an applicant, otherwise eligible and qualified, who does not fit within any of the previous six priority categories.

## 4.5 Priority Categories and Verification Requirements

### **State Public Housing 760 CMR 5.05 (3)(a) - Determinations of Priority, Preference, Eligibility and Qualification.**

(a) When an applicant approaches the top of a waiting list for a BHA program to which the applicant has applied, the BHA shall make a final determination of the applicant's priority, preference, eligibility and qualification. The applicant shall update the application and provide any additional information or verification reasonably required by the BHA.

**Note:** The BHA shall use the verification requirements outlined in the sections below as a guideline for verification for the State Public Housing programs.

### 4.5.1 Transfers

See Chapter on Transfers for explanation of Administrative Transfers and Special Circumstances Transfers.

### 4.5.2 Supported Housing Programs

See Chapter 10.

### 4.5.3 Super Priority

The BHA will admit an Applicant/Resident in good standing to the Public Housing program before all other Applicants/Resident on the waiting list if:  
The Applicant was a resident in a BHA public housing site the has been converted to other low-income housing.

The Applicant Family is or will be temporarily displaced due to rehabilitation and modernization programs (an applicant family shall be deemed temporarily displaced from the time the family vacates the public housing unit until an offer is made to return to the site).

The Project Based Voucher (PBV) Family resides in a PBV unit where the BHA determined that the family is occupying a wrong size unit or Unit with accessibility features that the Family does not require, and a Family that requires the accessibility features needs the Unit.

### 4.5.4 Priority 1 for Federal Housing Programs ("P1")

#### **(a) Verification of Priority 1 Timeline**

The BHA grants Priority 1 status based on circumstances verified at two points:

- (i) at the time of application with verification as determined by BHA, AND
- (ii) immediately prior to the final eligibility interview for all relevant BHA programs by satisfying the verification requirements in the relevant section below.

### **(b) Changes of Priority 1 Status**

Additionally, a change from one Priority 1 category to another Priority 1 category in between application and the final eligibility interview shall not disqualify an applicant from their original application date and time.

Priority 1 status shall not be re-verified after a determination of eligibility is made during final eligibility screening. The BHA will verify non-receipt of subsidized housing as described in 4.5.5(a)(iii) below prior to leasing.

### **(c) Determinations of Priority 1 Applicants on Multiple Waitlists**

- (i) Approval or Denial for Priority 1 on any BHA waiting list suffices as an approval or denial for Priority 1 on all applicable BHA waiting lists.

## **4.5.5 Priority 1 Displaced Categories**

The **Displaced Priority** categories are:

1. Government Action
2. Disaster
3. Domestic Violence
4. Victim of a Hate Crime
5. Fear of Reprisal / Witness Protection
6. Court Ordered No-Fault Eviction
7. Cost Burdened in Boston
8. Inaccessibility to the Dwelling Unit
9. Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals

### **(a) Displaced Category Threshold Verification Requirements**

In order to qualify as Displaced in one of the categories detailed below, the Applicant must meet the following threshold verification requirements:

- (i) Displaced or Imminent Danger of Displacement: the Applicant must have been Displaced from their residence or is in imminent danger of being Displaced due to one of the categories set forth below, AND
- (ii) Proof of Address: the Applicant must verify proof of residence at the address of displacement by providing a lease, utility bill(s), official mail from a government agency, or a written certification from the owner of the property or other government official, AND

(iii) No Receipt of other Subsidized Housing: The Applicant must not be in receipt of adequate subsidized or other low-income housing from the BHA or another government agency. An applicant will continue to be considered displaced if they reside in subsidized housing that is not permanent or is not accessible as defined below.

#### **(b) Displaced due to Government Action**

(i) 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.

(ii) Verification Requirements:

- 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
- the precise reason(s) for such displacement.

#### **(c) Displacement Due to a Disaster**

(i) Applicant was Displaced due to a disaster such as flood or fire, that results in the uninhabitability 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;

(ii) Verification requirements:

- A copy of the incident report from the local Fire Department or other appropriate agency who deals with disasters, OR
- Written verification from the appropriate unit or agency of government certifying that the applicant has been displaced or will be imminently be displaced, as a result of action by that agency, AND
- Verification the appropriate agency that the dwelling unit is now uninhabitable AND
- If applicable, the cause of the disaster. If you 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 the reviewing department.

#### **(d) Displacement Due to Domestic Violence/Dating Violence / Stalking/ Sexual Assault**

(i) Displacement or threat of imminent displacement from an address due to continuing actual or threatened physical violence (including sexual abuse) directed against one or more of the Applicant Family members.

(ii) Verification requirements:

- Submission of a fully completed "Certificate of Involuntary Displacement Due to Domestic Violence/Dating Violence/ Stalking/ Sexual Assault" HUD Form 5382, OR
- A document, (1) signed by an employee, agent, or volunteer of a victim service provider, an attorney or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, (2) signed by the applicant or tenant, (3) that specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault or stalking is the grounds for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault or stalking under 24 C.F.R. 5.2003; OR
- A record of a Federal, State, tribal, territorial, or local law enforcement agency (may include a police report), court, or administrative agency; OR
- At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.
- Verification will not be considered valid unless it: (1) supplies the name of the threatening or abusive Household Member or other legal occupant of the dwelling Unit if known is safe to do so, AND (2) describes how the situation came to certifier or verifier's attention, AND (3) Indicates that the Applicant was displaced because of the threats and/or violence and that the Applicant is in imminent danger where they now resides.

#### **(e) Displaced Due to Being a Victim of a Hate Crime**

(i) The Applicant or a member of the Household has been a victim of one or more hate crimes AND the Applicant Family 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.

(ii) "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, prejudice, or which otherwise deprives another person of their 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.

(iii) Verification must include:

- Submission the appropriate BHA form, OR
- Documentation from a law enforcement agency that the Applicant or a Household Member was a victim of such crime(s)

**(f) Displaced Due to Avoidance of Reprisal or Witness Protection**

(i) Relocation is required because an Applicant provided information or testimony on criminal activities to a law enforcement agency; and based upon a threat assessment, a law enforcement agency recommends the relocation of the Applicant to avoid or minimize risk of violence against Applicant as reprisal for providing such information.

(ii) Verification requirements:

- Submission of the appropriate BHA form or documentation from a law enforcement agency that the Applicant and/or a household member provided information on criminal activity; AND
- Documentation that, following a threat assessment conducted by the law enforcement 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 Family member(s) are themselves the victims of such crimes and have provided information or testimony to a law enforcement agency.

**(g) Displaced Due to Court-Ordered No-Fault Eviction:**

(i) Eviction occurred pursuant to an Order for Judgment (or Agreement for Judgment) issued by a court because of:

- Landlord action beyond the applicant's ability to control or prevent, such as failure to accept an offer of a new lease; owner's desire to use the unit for personal use, or a non-residential purpose; a business or economic reason such as sale or renovation of the property or a desire to lease at a higher rent , AND
- the action occurred despite the applicant's having met all lawfully imposed lease conditions, 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.

(i) Verification Requirements:

- a copy of the Judgment of the Court ( Agreement for Judgment, Order for Judgment and Findings of Fact, or Default Judgment); AND
- If necessary, additional information to verify no fault if the judgment is not clear, such as the Summons and Complaint and or Notice to Quit.
- if applicable, a copy of the execution issued by the court.

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

- the action taken by the landlord or property manager was beyond the Applicant's ability to control or prevent; AND
- the action by the landlord or property manager occurred despite the Applicant Household 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 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.

#### **(h) Displaced Due to Being Cost Burdened in Boston**

(i) The Applicant can demonstrate paying more than fifty (50) percent of their total household monthly gross income towards housing and utilities in a Boston residence (excluding internet and telephone).

(ii) Verification requirements:

- A Lease providing the rent amount and showing Applicant is or was a tenant and confirming the rent, OR
- Rent Receipts or Bank Statements providing the rent amount paid over time, OR
- A mortgage statement providing the monthly payment amount and showing the Applicant is or was the owner of the property, AND
- Verification of the gross income, including all earned income and benefits, for the Applicant and all household members, AND
- Utility bills paid for by the Applicant or Applicant household members, AND
- Copies of any foreclosure notices, if applicable, AND

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

**(i) Inaccessibility of a critical element of their current dwelling unit**

(i) A Household Member has a mobility or other impairment that makes the person unable to use a critical element of the current Apartment or development AND the neither the Owner nor administering agency is legally obligated under the law pertaining to Reasonable Accommodation to make changes to the Apartment or dwelling Unit that would make these critical elements accessible to the Family member with the disability.

(ii) Verification Requirements:

- The name of the Family member who is unable to use the critical element;
- A written statement from a Qualified Healthcare Provider verifying that a Family 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
- A statement from the landlord or official of a government or other agency providing service to such Disabled Person 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) Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals:**

(i) A participant in a transitional housing program for Elderly or Disabled Persons which includes a supportive services component (e.g., the Shelter Plus Care Program) shall be considered to be imminently in danger of homelessness. Such a program participant shall be eligible as a Priority One Applicant if:

(ii) Verification requirements:

- The person has been a tenant in such a program for not less than twelve (12) months; AND
- The person no longer requires the or completed the program's services (as determined by the program service provider); AND
- As a result must relocate from such housing.

**4.5.6 Priority 1 Homeless for Non-State Program**

**(a) Homeless Defined**

The Applicant Household lacks a fixed, regular and adequate nighttime residence, meaning:

(i) Has a primary nighttime residence that is a public or private place not meant for human habitation; OR

(ii) is living in a publicly or privately operated shelter designated to provide temporary, living arrangements (including congregate shelters, Transitional Housing, and hotels and motels paid for by non-profit, charitable organizations, or by federal, state and local government programs); OR

(iii) Is living in housing that is being funded or provided to offer homeless individuals and families with the interim stability and support to ultimately make the transition to and maintain permanent housing; OR

(iv) An Applicant would otherwise be in shelter if not for a medical condition which precludes a person from staying in shelter as verified by a medical provider.

**(b) Verification Requirements:**

(i) Submission of the applicable BHA form that providing that the Applicant is homeless as defined above; AND

(ii) 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; OR,

(iii) In the case that the Applicant cannot be in the shelter due to a medical condition, written verification from a medical provider must be provided to demonstrate that the individual is unable to live in a public or private shelter, or any other place unfit for human habitation due to the applicant's severe medical condition or disability.

(iv) The Applicant shall be verified as Homeless at the time the application is submitted and immediately prior to the final eligibility personal interview is scheduled. Gaps of non-homelessness in between those two points shall not result in denial of Priority 1 Homeless qualification.

#### 4.5.7 Standard (no Priority) Applicants

Standard Applicants are those who do not qualify for any Priority category under this policy.

#### 4.5.8 Housing Situation for State Programs

##### **State Public Housing 760 CMR 5.11 – Housing Situation**

The Housing Situation Priority Policy issued by the Department sets out the criteria to be used by BHA to determine the Priority to be granted to the applications of Homeless Applicants. The Priority of an application on the LHA waiting list shall be initially set by the Statewide Online Application System (CHAMP) based on the unverified Housing Situation that is claimed by the applicant on the application form.

When an application nears the top of BHA's waiting list, the BHA shall require the applicant to provide verification of the Housing Situation that was claimed on the application. If the applicant fails to submit all documentation necessary to verify the Housing Situation that was claimed on the application within ten business days of the BHA's request for verification, then the application will be granted Priority 7 Standard. If at any subsequent time the applicant submits verification of the previously claimed Housing Situation, the BHA will grant the verified Priority as of the date and time of the applicant's initial claim.

If an applicant submits documentation that fails to verify any criteria of the claimed Housing Situation Priority, then the BHA shall deny the Priority and inform the applicant of the right to appeal the determination pursuant to 760 CMR 5.13. An applicant may claim or delete an existing claim of Housing Situation Priority at any time. Any grant of a claimed Priority by a BHA shall be made only after verification of the circumstances that meet the criteria for the Priority as set out in the Housing Situation Priority Policy. Any change to an application's Priority, including the grant or denial of a Priority, that is made by BHA shall only affect the position of the application on that BHA's waiting list for the program [or developments] for which the applicant is being considered.

The DHCD Housing Situation Priority Policy shall be posted at all times on DHCD's website at <https://www.mass.gov/orgs/housing-and-community-development> and in the LHA's administrative office where applications are received and shall be a public record.

## 4.6 Admission Preference

An Applicant may only apply for a Preference when the waiting list is open.

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

A Priority One Applicant with a Preference will be ranked above a Priority One Applicant with no Preferences. Preferences are cumulative, so an Applicant with more than one Preference (e.g., Veterans and Displaced) will be ranked higher within his or her Priority category than an Applicant with only one Preference.

**Determinations of Preference:** Approval or Denial for the Single Elderly or Disabled Preference, Veterans Preference or Displaced Boston Tenant Preference will suffice as an approval or denial for the Preference for all applicable BHA waiting lists.

### **State Public Housing 760 CMR 5.09(2) – Preference Categories**

**Preference Categories.** Apart from the affirmative action preference to be applied pursuant to 760 CMR 5.10(3) the LHA shall apply the following preferences in descending order within each of the priority categories in determining the order of tenant selection:

**Veteran.** Any veteran applying for elderly/handicapped housing receives this preference. A veteran applying for family housing receives this preference in all St. 1948, c. 200 units or, if the LHA has no St. 1948, c. 200 units, in all St. 1966, c. 705 units. In St. 1948, c. 200 and St. 1966, c. 705 units the order of preference is as follows:

1. Veterans with service-connected disability;
2. Families of deceased veterans whose death was service connected; and
3. Other veterans.

**Local Resident.** Any Local Resident applying for public housing receives this preference.

### 4.6.1 Designated Housing Preference

#### **(a) Federal**

- (i) When Non-Elderly Disabled Resident Population is less than 20%

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).

(ii) When Elderly Resident Population is less than 80%

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).

## **(b) State**

(i) General Provisions for Placements

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.

Any accessible or modified unit shall be offered to an applicant household that 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.

(ii) 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:

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 the percentage of disabled households equals or exceeds 13.5%.

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 the percentage of disabled households falls below 13.5%.

If the percentage of units occupied by disabled households equals or exceeds 13.5%, but the BHA has exhausted its waiting list of eligible and qualified elderly households, the BHA 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.

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 households and eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old, the BHA 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.

#### 4.6.2 Single Elderly and Disabled Preference

The Boston Housing Authority has an Admissions preference for a single person Applicant, who is Elderly or Disabled over other single persons. An Applicant will be given preference over an Applicant who is a Single Person who is not an Elderly or Disabled person within each waiting list Priority category. Applicants who require a wheelchair will not receive these preference points since they shall be matched to wheelchair accessible units through the offers process.

**Note:** A single woman who is pregnant at the time of admission, or a Single Person who has secured or is in the process of securing the custody of any individual(s) below the age of 18, will not be considered a Single Person for the purposes of this preference

#### 4.6.3 Veterans Preference

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:

Applicants claiming a Veteran's Preference must provide a copy of the discharge documents of the Veteran for whom 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.

#### 4.6.4 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.

##### **(a) No length of Residency Required**

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

##### **(b) Verification Requirements**

To receive this Preference, an Applicant must verify that: (1) they were displaced from a unit within the City of Boston.

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:

- (i) Landlord verification
- (ii) A copy of a Lease
- (iii) Utility Bill (electric, gas, oil, or water)
- (iv) Mortgage Payments
- (v) Letter from School Department
- (vi) Letter from Social Security Department
- (vii) Taxes
- (viii) Other verification deemed acceptable or necessary by BHA

#### 4.7 Apartment Features Considered

Before applying Priorities and Preferences, BHA will determine the appropriate apartment size and special features based on Household composition and needs. 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.

## 4.8 Changes in Priority and/or Preference

An Applicant is required to report any change in circumstances that may result in a change of priority or preferences.

### Verification

To the extent that the verification determines that the Household does 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.

## 4.9 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) advance(s) 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.

### 4.9.1 Split between Head and Co-Head of Household

(a) 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.

(i) 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).

(ii) If the Co-Head was added later, they shall be approved for the application date equal to the date when they were 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:

(i) 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.

(ii) 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.

(iii) Verification Requirements

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.

Verification will not be considered valid unless it, (1) supplies the name of the threatening or abusive Household Member, and (2) 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.

#### 4.9.2 Applicant Family Break Up for Minor Households

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 Eligibility

Eligibility for Federal programs is determined in accordance with federal regulations and this policy.

Eligibility for State Public housing is governed by 760 CMR 5.00

#### 5.1.1 Threshold Eligibility Requirements

##### **(a) Family Program and Elderly Disabled Program**

In order to be preliminarily eligible for the Family Program or Elderly Disabled Program, a Household must meet the following threshold requirements:

- (i) The Household must be a Family as defined in this policy;
- (ii) The Household must have an Annual Income at or below program guidelines, as defined below; and
- (iii) 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>4</sup>).

An Applicant that owes a balance to the BHA, will be notified of the requirement to repay the balance prior to admission. The Applicant shall have 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.

In certain circumstances, such as a conversion action where public housing is being converted to another form of subsidized housing, the BHA may consider entering into a repayment agreement with the applicant.

##### **(b) Elderly and Disabled Program Only**

In order to be eligible for the Elderly and Disabled Program a Household must meet the above threshold requirements. In addition:

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<sup>4</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)

- (i) 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.

**State Public Housing 760 CMR 5.03 – Elderly Housing**

Elderly Household. A household, residing in or applying for elderly/handicapped housing, containing at least one elderly person.

Elderly Persons of Low Income. Persons having reached 60 years of age or older who are income eligible for state-aided public housing. As used in 760 CMR 5.00, Elderly Person shall mean an elderly person of low income.

Elderly/Handicapped Housing. St. 1954, c. 667 housing managed pursuant to the provisions of M.G.L. c. 121B, §§ 39 and 40 for elderly persons of low income and handicapped persons of low income.

**5.1.2 Eligibility Determination**

To determine final eligibility of the Applicant, BHA will verify the following:

- (a) Whether the Applicant meets the definition of Family,
- (b) Elderly or Disabled status of the Applicant,
- (c) Income,
- (d) Appropriate bedroom size and features required for the family,
- (e) Priority and/or Preference,
- (f) Qualification of the Applicant with to the Screening Criteria set forth below,
- (g) Proof of Social Security Number,
- (h) Citizenship status, if applicable
- (i) The calculated pro-rated rent for admission shall not exceed 50% of the household's total gross income.

## 5.2 Verification Generally

When an application nears the top of a waiting list the BHA will request access to reliable and reasonably obtainable documentation verifying the accuracy of information appearing on the application form and the selected priority, preference, eligibility and qualification.

### **State Public Housing 760 CMR 5.12 – Verification of Preference, Eligibility and Qualification**

(1) When an application nears the top of a waiting list for housing in a program at an LHA, the LHA shall require the applicant to provide the LHA access to reliable and reasonably obtainable documentation verifying the accuracy of information appearing on the application form or otherwise necessary for the LHA's final determination of the applicant's Preference, eligibility and qualification. If the LHA is unable to verify the information that was provided in the application within ten business days of the LHA's request for verification, then the LHA may make an offer of housing to the applicant appearing next on the waiting list for whom it has obtained fully verified information. If an LHA determines that the criteria for Preference, eligibility or qualification is not met, then the LHA shall deny the applicant's Preference, eligibility or qualification and inform the applicant of the right to appeal the determination pursuant to 760 CMR 5.13. Any grant or denial of a Preference, or determination of ineligibility or disqualification, that is made by an LHA shall only affect the application on that LHA's waiting list for the program for which the applicant is being considered at that LHA.

(2) Income of applicants shall be verified by the procedure specified for rent determination. If the LHA has verified any information when making a preliminary determination of eligibility for the applicant, and that information is more than 90 days old, the LHA shall reverify such information on its final determination of eligibility and qualification. Non-receipt of requested documentation, without good cause established by applicant, shall be cause for determining applicant unqualified.

(3) The LHA shall require an applicant to provide the names and current addresses of all landlords (or housing providers) for applicant and household members during the period five years prior to application through the date of the final determination. If, after request the LHA has failed to receive a reference from a landlord (or housing provider) it shall notify applicant of non-receipt, and the LHA shall request that applicant use their best efforts to cause the landlord (or housing provider) to submit the reference to the LHA. In the event the applicant uses their best efforts but is unsuccessful, the applicant shall cooperate with the LHA in securing information from other sources about the tenancy. Non-receipt of a reference from a landlord (or housing provider) shall be cause for determining an applicant unqualified, unless the applicant can show that they have used best efforts to secure the reference and that they have complied with reasonable requests for cooperation in securing other information.

(4) In determining qualification the LHA shall check Criminal Offender Record Information and Sex Offender Registration Information and make reasonable efforts to check available records of out-of-state criminal convictions. The LHA may also check: public records; other sources of public information; credit reports; and other reliable sources. The LHA may also make a home visit, which shall be scheduled reasonably in advance. Observations by the person making such a visit shall be promptly reduced to writing and placed in the applicant's file.

(5) Information regarding eligibility or qualification may be obtained by the LHA from interviews with the applicant and with others, from telephone conversations, letters, or other documents, and from other oral or written materials. All such information received shall be recorded in the applicant's file, including the date of its receipt, the identity of the source, and the person receiving the information.

### 5.2.1 Documentation

All documents used to determine or verify eligibility shall be maintained in the Applicant file. Files should be maintained in accordance with State and federal laws.

### 5.2.2 Applicant Release of Information

All adult household members will be required to execute releases of information to allow the BHA to verify eligibility.

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

### 5.2.3 Verification Order of Preference for Federal Programs

The BHA will accept verification of screening and eligibility information in the following order of preference:

#### **(a) Up Front Verification**

Verification through the computer matching system employed by HUD (EIV) when available or required or another computer wage reporting system is the highest, most acceptable form of verification. This type of verification is not limited to income, but also pertains to verification of family composition, housing situation, and other factors that may be useful in determining admission and continued eligibility.

#### **(b) Written Third Party Verification Supplied by Household**

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. Resident-supplied documents must be dated within sixty (60) days of receipt by the BHA.

Certain documents, such as birth certificates and social security cards are not subject to change and do not need to meet the sixty (60) day requirements. See 5.3.4 below.

#### **(c) Written Third Party Verification Responding to BHA Request**

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.

#### **(d) 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.

#### **(e) Verification by Self-Certification**

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.

### **5.2.4 Verification Timelines**

General procedures applicable to screening information are as follows:

#### **(a) Information subject to change**

Generally, documents should be dated within sixty (60) days of receipt. Verification information is 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.

#### **(b) 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.

### **5.2.5 BHA Right to Request Additional Verification**

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 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 Verification of Family Composition**

### **5.3.1 Photo identification**

The Head and Co-Head of Household must supply one of the following forms of photo identification:

- (a) Driver's license
- (b) Registry of Motor Vehicles picture ID
- (c) Passport
- (d) Student or employer ID
- (e) Other photo ID acceptable to BHA

### **5.3.2 Proof of Birth**

Proof of Birth or Expected Birth for all Household Members (One of the following proof of birth documents in order of preferred documentation):

- (a) Birth Certificates
- (b) Passports
- (c) Original Baptismal Records
- (d) Original INS documents for eligible Non-Citizens (Federal only)
- (e) Other records as deemed appropriate by BHA (Marriage certificate, DDG214, Statement from Social Security Administration)

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

### 5.3.3 Proof of Relationships

Applies to minor children or the care of adults in guardianship situations. The following types of documents will be accepted:

- (a) Birth Certificates
- (b) Court records of adoption
- (c) Court records of guardianship
- (d) Other written documentation or designation from the minor child's parent or other such person having legal custody.

### 5.3.4 Social Security Numbers

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

- (a) Social security card. Copies of Social Security cards shall be destroyed if an Applicant becomes housed and the Social Security number is verified through the HUD Enterprise Income Verification (EIV) system.
- (b) Original Report from the Social Security Administration documenting the unavailability/non-assignment of a social security number for that Applicant household member
- (c) A written statement from the Social Security Administration documenting the social security number assigned for that Applicant household member.

### 5.3.5 Verification of Student Status

Federal Programs:

Full time student status for an Applicant household member 18 years of age or older shall be verified through statement on the letterhead or other official documentation of an accredited educational institution stating that the Applicant household member is enrolled as a full-time student at that institution.

State Programs:

A Household Member between 18 and 26 years old, who is the dependent of another Household Member shall be verified on the letter of other official documentation of an accredited institution stating that the Applicant household member is carrying a course load that is considered at least half-time for students under the standards and practices of the institution

### 5.3.6 Verification of Disability

The BHA shall verify status as a Disabled Household or Disabled Person for purposes of determining eligibility and rent calculation. The following documentation will be accepted for purposes of verifying the status of a household member as a Disabled Person:

- (a) The household member's sole source of income is SSI benefits, SSDI benefits, or disability retirement income (see income verification below);
- (b) 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)

#### **State Public Housing 760 CMR 5.07 – Verification of Handicapped Persons**

- (1) The definition of handicapped persons of low income is set out in M.G.L. c. 121B, § 1. A handicapped person of low income, as so defined, may have one or more physical or mental impairments, which shall be considered in conjunction with each other if more than one exists.
- (2) The LHA shall determine whether non-elderly applicants for elderly/handicapped housing are handicapped persons of low income. Upon request, the applicant shall provide documentation sufficient for the LHA to be able to make a determination of eligibility. Such documentation shall be subject to third-party verification. As part of the determination process the following actions and findings are necessary.
  - (a) The applicant shall provide certification by a physician documenting a physical or mental impairment which is expected to be of long and continued duration, but at least for more than six months;
  - (b) the LHA shall determine that either certain special architectural design features or low- rent housing are not available in the private market and that the applicant is faced with living in an institution or decadent, substandard housing, or paying excessive rents; and
  - (c) the LHA shall determine an applicant to be of low income if the applicant's household income is within the income limits set for state-aided public housing.
- (3) Examples of a person with a qualifying physical impairment which may substantially impede their ability to live independently in conventional housing shall

include, but shall not be limited to, a person:

- (a) who is confined to a wheelchair;
- (b) who, because of the use of braces or crutches, or because of the loss of a foot or leg, or because of an arthritic, spastic, pulmonary or cardiac condition walks with significant difficulty or insecurity;
- (c) who, due to a brain, spinal or peripheral nerve injury, suffers from significant coordination deficits;
- (d) who is blind within the definition of blind person set out in 111 CMR 3.03: Definitions;
- (e) who is deaf within the definition set out in M.G.L. 6, § 191; or
- (f) who has a developmental disability which prevents the person from living totally independently and would benefit from the LHA's specialized housing (such a person may include, but is not limited to, a person with cerebral palsy, mental retardation, or epilepsy).

#### 5.3.7 Verification of Need for Special Unit Features

During the application process, the Applicant will identify any required special features that may be required due to the disability of one or more family members. Such features could include first floor apartments, inability to live in a townhouse unit, need for accessible features such as wheelchair accessibility, and other factors.

The need for special features shall be evaluated and verified in accordance with Policy for Good Cause and/or Reasonable Accommodation verifications.

#### 5.3.8 Verification of Citizenship Status (Federal Programs Only)

##### **State Public Housing**

Provisions with respect to Citizenship status and eligibility do **not** apply to State public housing programs.

#### **(a) Citizen and Non-Citizen Eligibility Requirements**

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 an Eligible Non-Citizen. Immigration Status for all Non-Citizen household members must be verified through the U.S. Department of Immigration and Naturalization Service.

## **(b) Mixed Household**

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.

## **(c) Evidence of Citizenship Status**

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:

- (i) For Citizens, a signed Declaration of U.S. Citizenship
- (ii) For Non-Citizen who is age 62 or over, a signed Declaration of "Eligible Immigration Status" and proof of age.
- (iii) For Applicants not contending to have citizenship or eligible immigration status, a completed "Non-Contending" form certifying the lack of status.
- (iv) An Applicant who is a Non-Citizen who does not fall into one of the categories above must provide a signed Declaration of "Eligible Immigration Status," a signed Verification Consent Form and one of the original documents listed below:
  - Registered Alien Card (U.S. Immigration and Naturalization Service (INS) I-551 Form)
  - 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"
  - 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).

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

#### **(d) Denial or Termination of Assistance**

The BHA will deny assistance to an Applicant or terminate assistance to a resident in the following situations:

- (i) 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;
- (ii) 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

The Household does not pursue an INS appeal or informal hearing rights; **or**

The INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the Household Member; **or**

- (iii) 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.

#### **(e) Prohibition to Delay, Deny, Reduce or Terminate Assistance**

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:

- (i) The primary and secondary verification of any immigration documents that were submitted in a timely manner has not been completed;
- (ii) The household member for whom required evidence has not been submitted has moved from the assisted apartment;

(iii) The household member who is determined not to be in an Eligible Non-Citizen status following INS verification has moved from the assisted apartment;

(iv) The INS appeals process has not been concluded;

(v) 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);

(vi) Assistance is prorated in accordance with the applicable Federal requirement; or

(vii) Assistance for a mixed Household is continued in accordance with applicable Federal requirements; or

(viii) Deferral of termination of assistance is granted.

#### **(f) Preservation of Assistance**

##### **(i) Prorated Assistance**

For Resident Households prorated Assistance is 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.

##### **(ii) 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.

## **5.4 Verification of Income and Deductions**

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.

HUD mandates use of Enterprise Income Verification (EIV) for current residents. However, EIV is not available to verify income of applicants.

The following outlines the types of verification of income, deductions, exclusions and assets will be accepted.

State Programs: Please note that the following verification is a non-exhaustive list of types of verification that may be required to verify income and assets as permitted under 760.CMR 6.04.

#### 5.4.1 Income from Employment

Federal Program:

(a) Verification through the computer matching system employed by HUD (EIV) or a computer wage reporting system.

(b) 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

(c) Two (2) most recent and consecutive pay stubs showing gross income for each pay period and all deductions.

(d) 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.

State Program:

For wages, interest, dividends, annuities, pensions or recurring lottery winnings, the Tenant shall submit copies of the prior year's tax reporting forms received by the Tenant (including W-2 forms, W-2G forms, and 1099 forms).

#### 5.4.2 Income from governmental agencies

(a) Verification through the computer matching system employed by HUD (EIV) or a computer wage reporting system.

(b) 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.

#### 5.4.3 Income from Retirement Accounts

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

#### 5.4.4 Income from the operation of a business or profession

Federal Program

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

#### State Program

For self-employment income the Tenant shall submit a copy of the prior year's Schedule C of US Form-1040

#### 5.4.5 Zero Income

- (a) When an Applicant household reports zero income, the BHA may require the Applicant household to complete a budget or statement of financial responsibility. Any sources of regular cash expenditures will be used as income.

#### 5.4.6 Child Support, alimony, regular gifts and gambling proceeds

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

#### 5.4.7 Income from Assets

- (a) 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 and guidance 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.

- (b) Types of verification which will be accepted for purposes of determining the value and income received from an asset include:
  - (i) The most recent statement for statement accounts, including bank accounts, money market funds, mutual funds, or other assets for which regular statements are issued;
  - (ii) Original passbook for passbook savings accounts;
  - (iii) 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

(iv) Appraised valuations of any non-essential personal assets such as jewelry, coin collections, antiques or classic cars.

(v) For a family with net assets equal to or less than \$5,000, the BHA may accept a family's declaration that it has net assets equal to or less than \$5,000 without taking additional steps to verify the accuracy of the declaration. The BHA must obtain third-party verification of all family assets every three years.

#### 5.4.8 Verification of childcare expenses or care of disabled household member deductions

(a) 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.

(b) 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.

#### 5.4.9 Verification of Medical Deductions

(a) Payments for necessary medical expenses (including co-payment amounts) which are not covered by insurance or otherwise reimbursed are deductions from income, provided that such expenses are in excess of 3% of annual gross household income and are paid by household members. Payments for medical health insurance are also considered medical expenses are a deduction. For federal programs, the medical deduction is limited to resident households where the head or spouse is a person who is at least 62 years of age or a person with disabilities. For State programs, this deduction is applicable to all households.

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

(i) 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;

(ii) 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.);

(iii) Signed printout of prescription costs from a pharmacy accompanied by proof of payment;

(iv) Medical or dental bills for a household member paid by a household member;

(v) 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.

#### 5.4.10 Permissive Deduction in Excess of Monthly Stipend

The BHA shall deduct resident service stipend amounts in excess of the \$200 monthly limit from annual income for any period determined by its Administrator to be an emergency including but not limited to a pandemic when assistance is urgently required to assist BHA residents and when funding for stipends is available. Any such determination by the Administrator shall be in writing and include the duration of the emergency. The activities to be carried out as a result of the determination shall be clearly defined and will not include work that would ordinarily be performed by BHA staff.

#### 5.4.11 Income Exclusions

Certain sources of income are excluded by the BHA in accordance with Federal and state regulations as set forth in 24 CFR 5.609(c) and 760 CMR respectively.

### 5.5 Screening for Suitability

Applicants are screened for suitability in accordance with BHA policies and HUD and EOHLC regulations (24 CFR Part 960.205 and 760 CMR 5.00 respectively), and guidance. BHA shall screen all members of the applicant's household who are 18 years or older and review the criminal background for all household members that are 14 or older, the age in Massachusetts at which a minor may be tried as an adult.

#### 5.5.1 Purpose of Suitability Screening

BHA seeks to promote safety and stability in its communities by leasing to applicants who have a reasonable expectation of being able to consistently comply with the terms of their lease agreement. Accordingly, BHA's screening process to evaluates the ability of the applicant household to:

- (a) Pay rent in accordance with BHA's policies and lease provisions;
- (b) Comply with terms of a lease agreement, health and safety codes, applicable laws and regulations;
- (c) Properly maintain a residence in accordance with accepted standards of cleanliness, housekeeping, health, and safety; and applicable laws and ordinances;
- (d) Live harmoniously with other BHA residents and the community at large;

- (e) Comply with BHA policy and program requirements;
- (f) Behave in a manner that will not adversely affect the health, safety, and welfare of BHA staff, its agents or invitees; and
- (g) Not engage in criminal activity, including illegal drug-related activity, either on or off BHA premises.

The screening process may consider information, including, but not limited to the applicant's assets, income, criminal history, and housing history, and may be obtained from a variety of sources including credit reports, criminal records, rental references, criminal background reports, records of housing-related collections, evictions, and judgments.

### 5.5.2 Housing History

The Applicant Household shall provide a minimum of a one-year housing history upon request. The housing history shall be evaluated and verified for the criteria identified below to determine suitability for BHA housing. If the one-year housing history provides conflicting or insufficient or incomplete information, the BHA may request an additional two years of housing history from the Applicant. The BHA, at its discretion may request additional information from any of the verification sources provided or additional housing history beyond three years to clarify inconsistencies or to obtain sufficient information to evaluate an Applicant for suitability.

A BHA Applicant for the State Public Housing program shall be required to submit a five (5) year housing history in accordance with the current online application system and the State regulatory requirements.

### 5.5.3 Criminal History

#### **(a) Use of Criminal History**

A record of involvement in criminal activity by the Applicant or member of the Applicant Household 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 will be considered in the screening process.

For State public housing, the criminal record will be considered if the applicant or a household member in the past has engaged in criminal activity, or activity in violation of section four of chapter one hundred and fifty-one B, which if repeated by a tenant in public housing, would interfere with or threaten the rights of other tenants to be secure in

their persons or in their property or with the rights of other tenants to the peaceful enjoyment of their units and the common areas of the housing development. See MGL 121B, Section 32(d).

BHA shall use 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 including landlord references to prevent criminal activity that would adversely affect the health, safety or welfare or physical security of property of other Residents, BHA staff or guests.

BHA shall review both convictions and pending charges.

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.

Criminal record information shall be requested and maintained in accordance with guidance established by the Massachusetts Executive Office of Housing and Livable Communities (EOHLC) and 803 CMR 5.00 and any other applicable laws.

The Applicant Household is required to allow the BHA to review the criminal background history for all Applicant Household members who are 14 years of age or older. Criminal History may be reviewed for minors who are 14 or older if they were tried as an adult, otherwise known as youthful offender information. The BHA will not review any juvenile offender information.

#### **(b) Mandatory Denial**

(i) Lifetime Sex Offender Registration Requirement. BHA shall use Sex Offender Registry Information (SORI) as permitted by law in the eligibility determination process. 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.

(ii) Conviction for Manufacture of Methamphetamine. 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 developments/AMPs and are only eligible for admission to State aided developments upon establishing acceptable Mitigating Circumstances.

### **(c) Look back period**

The review of criminal history shall be limited to a period of three (3) years for criminal activities which would be punishable as a misdemeanor or equivalent level of culpability under local law and seven (7) years (except where the Housing Authority has an obligation to ban applicants whose criminal activity is subject to mandatory denial) for an activity which would be punishable as a felony or equivalent level of culpability under local law. The look back period shall run from the date of conviction or the release date, whichever is later. The Housing Authority may deny an applicant whose criminal record shows a pattern of violent criminal activity, or activity that is inherently violent, even though the activity has occurred outside of the time frame set out above.

Once a criminal record has been sealed pursuant to G.L. c. 276, §100A, it may no longer be evaluated for the purposes of screening.

### **(d) Use of Illegal Drugs**

#### **(i) Current Use**

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.

#### **(ii) Past Use Does Not Excuse Associated Behavior**

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.

(iii) Documentation that a former illegal drug user is not currently using illegal drugs could include:

- 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;
- 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;
- 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;
- Voluntary drug testing. An Applicant or household member cannot be required to undergo drug testing as a condition of eligibility. However, if they 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.

- If an Applicant or household member is currently in treatment for illegal drug use (as opposed to having 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 demonstrate why current situation and claim of non-drug use is different from the previous unsuccessful efforts to stop using drugs and that the likelihood of a change 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.

#### **(e) Treatment for Substance Abuse**

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 they were:
- 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.

#### **(f) Alcohol Abuse and Screening**

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. If the abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents, an applicant may be disqualified.

#### **(g) Denial for Criminal Activity**

The BHA shall not automatically deny an applicant based on the presence of criminal history.

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.

#### **(h) Right to Dispute Accuracy of the Criminal Record**

If the Applicant believes that the Criminal record information is inaccurate, they 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. 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.

#### **5.5.4 Evaluation of Screening Criteria**

The BHA shall deny 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.

The history of the Applicant household's conduct must demonstrate that the Applicant household can reasonably be expected not to:

- (a) 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.
- (b) Violate the civil rights of any person, while on BHA property, in accordance with the BHA's Zero Tolerance policy.
- (c) Cause damage to the property or fail to pay rent in full and on time.
- (d) Violate the terms and conditions of the BHA lease.
- (e) Require services from BHA staff that would alter the fundamental nature of the BHA's program.
- (f) Illegally use, possess or distribute a controlled substance,

(g) 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.

#### 5.5.5 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.

#### 5.5.6 Outcome of Screening Process

##### **(a) Ineligible**

An ineligible Applicant will be promptly notified. The Applicant 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. The ineligible Applicant will also be informed that they have a right to request reconsideration if the reason for denial of assistance 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.

##### **(b) Eligible**

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 BHA, such as turnover rates, and availability of apartments of the appropriate size and/or with special features.

## 5.6 Personal Care Attendants / Live-in Aides

### 5.6.1 Definition for Federal Programs

**Live-in Aide** or Live-in Personal Care Attendant (PCA) is a person who:

- (i) Is determined by BHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and wellbeing of an Elderly or Disabled Person or persons; **AND**
- (ii) Is not obligated to support the Elderly or Disabled Person or persons; **AND**
- (iii) Would not be living in the Apartment except to provide the necessary supportive care; **AND**
- (v) Has no right to the Apartment as a Residual Tenant, **AND**
- (vi) Does not have their income included in the Elderly or Disabled Participant's Household for the purposes of determining total Family income **Definition State Programs**

Personal Care Attendant (PCA).

A person who resides with a Household Member with a disability and who:

- (a) provides necessary assistance in activities of daily living to such Household Member insofar as he or she requires such assistance on account of his or her disability;
- (b) is not obligated for support of the Household Member; and
- (c) is paid for the fair value of such assistance.

Pursuant to 760 CMR 5.03: Family (Household)(b), if determined by the LHA to be qualified, a full-time, live-in PCA shall be deemed a Household Member for purposes of determining the appropriate unit size in public housing.

If a full-time, live in PCA's income is included in gross household income for purposes of rent determination while the PCA is serving as a PCA, then if the Household Member with a disability to whom the PCA was providing services ceases to occupy the unit, the PCA may receive permission for continued occupancy as a remaining member of the Family (Household) for purposes of 760 CMR 5.03: Family (Household)(b), provided all other criteria for remaining members of the Family (Household) contained in 760 CMR 5.03: Family (Household)(b) have been met.

If a full-time, live-in PCA's income is not included in gross household income for purposes of rent determination while the PCA is serving as a PCA, then the PCA is eligible to be considered a remaining member of the Family (Household) if the Household Member with a disability to whom the PCA was providing services ceases to occupy the unit if, going forward, the individual's income will be included in gross household income for purposes of rent determination and all other criteria for remaining are met.

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

- (a) Any Live-in PCA OR Live-in Aide must meet the definition of a PCA OR LIVE-IN AIDE as stated above.
- (b) A Live-in PCA OR Live-in Aide can be a single person or a person with a household.
- (c) No addition of a Live-in PCA OR Live-in Aide and their household, if applicable, shall result in overcrowding of the apartment.
- (d) Any Live-in PCA OR Live-in Aide and their household, if applicable, must meet the criteria in the BHA's Screening Policy.
- (e) Any Live-in PCA OR Live-in Aide and their household, if applicable, will be counted as a member of the resident's Household for the purposes of determining the appropriate apartment size ONLY

#### **Federal Program only**

- (f) No Live-in PCA OR Live-in Aide and their household, if applicable, has/have the right to the apartment as a Residual Tenant (Federal Program only)
- (g) Any Live-in PCA OR Live-in Aide and their household, if applicable, must sign a waiver of residual residency status. (Federal Program only)
- (h) A family member who satisfies the definition of Live-in PCA or Live-in Aide will be notified in writing that they may be qualified as a PCA OR Live-in Aide and can choose one of the following two options:
  - (i) They can qualify as a PCA OR Live-in Aide, which is considered a household member, but not a family member and choose not to include their income as part of the Total Household Income and sign a waiver of residual residency status, OR
  - (ii) They can qualify as a family member who cares for their disabled or elderly family member and have their income included as part of the total Household income and retain rights as a potential residual tenant.

## CHAPTER 6: ASSIGNMENTS AND OFFERS

### 6.1 Apartment Occupancy Guidelines

#### 6.1.1 Occupation by Households of Appropriate Size

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

For state aided public housing, Appropriate Unit Size is defined at 760 CMR 5.03.

#### 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:

| Number of Bedrooms | Min. Persons/Apt. | Max. Persons/Apt. |
|--------------------|-------------------|-------------------|
| 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

##### **State Public Housing 760 CMR 5.03 – Appropriate Unit Size**

State assisted housing units shall be assigned using the size requirements in 760 CMR 5.03.

The size of a unit is appropriate for a household if the unit meets all the following criteria:

(a) Household members of the opposite sex, excepting husband and wife (or those in a similar living arrangement), do not have to share a bedroom, provided that children of the opposite sex younger than eight years old shall share a bedroom and provided that other household members of the opposite sex may elect to share a bedroom. Since

the BHA will be using CHAMP, the unit size and subsidy standards shall comply with the CMR.

(b) Persons of the same sex shall share a bedroom, provided that a household member, 21 years of age or older, may elect not to share a bedroom with their child, grandchild, or legal ward and provided that a household member does not have to share a bedroom if a consequence of sharing is or would be a severe adverse impact on their mental or physical health and if the LHA receives reliable medical documentation as to such impact of sharing.

(c) Each bedroom shall contain at least 50 square feet of floor space for each occupant and a minimum of 70 square feet and shall meet all other applicable requirements of 105 CMR 410.00: *Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II)* for a room occupied for sleeping purposes. No bedroom shall be shared by more persons than the number permissible under 760 CMR 5.03.

(d) Only bedrooms may be used for sleeping purposes by household members; the living room, kitchen, bathroom and hallways shall not be used for sleeping purposes by any household member.

**Applies to current federally assisted resident or previously approved transfer households:**

(a) The Head of Household and their spouse or domestic partner shall be entitled to one bedroom.

(b) Household Members under the age of twenty-five (25) who are of the same sex shall share a bedroom, with the following exemptions:

(i) 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.

(ii) Persons of different generations or opposite sex, other than head and spouse or partner, are not required to occupy the same bedroom.

(c) An unborn child **shall** be counted as a person in determining apartment size for admission purposes only, not for qualification for transfer.

(d) 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.

(e) 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**:

(i) Has been a BHA Resident for at least two years; and

(ii) Is a Resident in good standing. No waiver of this requirement shall be approved.

(f) 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.

(g) Transfer Applicants currently residing in a studio or a one-bedroom unit shall not be offered studio/efficiency units.

(g) 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.

(h) 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.

**Applies to all new admissions or transfers not yet approved: (Federal Public Housing only)**

(a) The Head of Household (and spouse or domestic partner, if applicable), shall be entitled to one bedroom.

(b) Two persons who are of the same sex shall only be entitled to one bedroom.

(c) The BHA shall inform the Applicant/Participant that s/he may elect to have a Child share a bedroom with another Child of the opposite sex, in order to be eligible for a smaller Unit Size.

(d) The BHA may assign an additional bedroom as a Reasonable Accommodation to a Disabled Family member.

(e) A single pregnant woman, as documented by a physician, with no other persons will be treated as a two-person Family. A pregnant woman whose Family includes other children will not be assigned an additional bedroom until the sex of the Child is determined and documented by a physician (either before or after birth). Once the sex of the Child is documented the BHA will assign the Family an additional bedroom if they are eligible.

- (f) A Child who is temporarily away from the home because of placement in foster care (as documented by the Department of Children and Families) is considered a member of the Family in determining Family Unit Size.
- (g) 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.
- (h) 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:
- (i) Has been a BHA Resident for at least two years; and
  - (ii) Is a Resident in good standing. No waiver of this requirement shall be approved.
- (i) 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.
- (j) Transfer Applicants currently residing in a studio or a one-bedroom unit shall not be offered studio/efficiency units.
- (k) 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.

## 6.2 Offers

Offers to federally assisted housing are made in accordance with the Section below. Offers to state public housing are made in accordance with 760 CMR 5.00, except that eighth offer is made to a Special Circumstances transfer as defined in Chapter 7.

### 6.2.1 Allocation of Offers to Different Applicant Types

|                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>State Public Housing Offers</b>                                                                                                                                     |
| The BHA shall use the methodology outlined in 6.2.1 of this ACOP to offer units to applicants of state public housing. This is a waiver of provisions of 760 CMR 5.00. |

#### (a) Counter System

The BHA uses a counter by waiting list, bedroom size, and apartment type, to allow every eighth apartment to be allocated to a special circumstances transfer.

The counter is established as units are vacated. Units will be offered as they become available.

#### (b) Offers Made Outside of the Counter System

(i) The counter process may be interrupted at any time in order to offer a unit to an Administrative Transfer applicant.

(ii) From time to time, the BHA shall fill a vacancy outside of the counter system with a Supported Housing Applicant. Supported Housing applicant lists are established by memorandum of agreement and referrals for those programs are received from non-profit partners that provide services to residents in exchange for housing opportunities. Memorandums of agreement for current Supported Housing Programs shall be posted to BHA's website.

### 6.2.2 Offers of Accessible Apartments

BHA seeks to occupy apartments with adapted features with residents that require the features due to a disability. The BHA shall take the following steps to achieve this goal:

(a) The BHA shall maintain a database of all of its Accessible Apartments and Apartments with adapted features, including wheelchair accessible units, first floor units, and units with zero steps.

(b) The BHA shall utilize this database to match residents and Applicants with a Household Member having a disability with appropriate apartments.

(c) The BHA will offer an available Apartment with adapted features in the following order:

(i) 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).

(ii) 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.

(iii) 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 an 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 their disability.

(d) The BHA shall also maintain a listing of all Apartments with adapted features where the current resident Household does not require the adapted features. If there is an Eligible and Qualified Applicant or Transfer Applicant on the waiting list with a need for the adapted features in an apartment that is currently occupied by a Household without a need, the BHA shall take the following action:

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.

#### **State Public Housing 760 CMR 5.10 – Placements and Offers**

(1) General Provisions for Placements.

(a) Placements are to be made in elderly/handicapped 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 LHA 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 and the affirmative action preference, if applicable.

(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.

(c) Except as provided in 760 CMR 5.10(1)(a) and (b) and subject to the affirmative action preference, if applicable, when a unit or rental assistance voucher becomes available, it shall be offered to the applicant for the applicable program with an appropriate household size who has the earliest date and time stamp in the highest preference category within the highest priority category.

(2) Placements by LHA in Elderly/Handicapped Housing. Prior to making a placement in elderly/handicapped housing, the LHA shall determine the LHA's current percentage of St. 1954, c. 667 units occupied by handicapped households. In making this determination the LHA shall count all St. 1954, c. 667 units, including St. 1954, c. 667 congregate units, St. 1954, c. 667 section 8 new construction or substantial rehabilitation units, St. 1954, c. 667 modified units, and St. 1954, c. 667 conventional units. The LHA shall then place applicants as follows:

(a) If the percentage of units occupied by handicapped households is less than 13.5%, the LHA shall place one eligible and qualified handicapped household for each eligible and qualified elderly household placed until such time as the percentage of handicapped households equals or exceeds 13.5%.

- (b) If the percentage of the units occupied by handicapped households equals or exceeds 13.5%, the LHA shall place eligible and qualified elderly households until such time as the percentage of handicapped households falls below 13.5%.
- (c) If the percentage of units occupied by handicapped 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 handicapped households whose members have attained 50 years of age, but are younger than 60 years old, until such time as the percentage of handicapped 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 handicapped households equals or exceeds 13.5%, and the LHA has exhausted its waiting list of eligible and qualified elderly households and eligible and qualified handicapped households whose members have attained 50 years of age, but are younger than 60 years old, the LHA shall place eligible and qualified handicapped 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 handicapped household whose members have attained 50 years of age, but who are younger than 60 years old.

### 6.2.3 Acceptance or Rejection of an Offer

Generally, a vacant unit will be offered to the Applicant with the highest priority and preference. If multiple Applicants have equal priority and preference points the first offer will be made to the applicant with the earliest Priority and Preference approval date or the earliest application date for an Applicant without priority or preference (Standard Applicant). An Applicant will receive **one** offer at a time for housing for the first unit that is ready for occupancy that is an appropriate size at a development of choice, if applicable.

**NOTE:** An applicant will only be entitled to one offer at a time across federal and State portfolios.

#### State Public Housing 760 CMR 5.10 (4) – Accepting and Rejecting Offers

- (4) Offers to Applicants.
- (a) An applicant offered a unit must accept the offer within seven business days of the date of the written offer. For good cause, the LHA may extend the time for response. An applicant is entitled to only one offer of a unit of appropriate unit size provided that the LHA shall offer another unit when the applicant provides reliable documentation establishing that the unit offered is inappropriate and would cause severe and unreasonable hardship. An applicant who fails to accept the offer of a unit within seven business days or to provide such documentation within that period, shall

be removed from the waiting list for that program at that LHA and after being removed from the waiting list, if the applicant files a new application with that LHA, the applicant shall not be entitled to any priority or preference previously received based on information provided in that application for a period of three years. The LHA shall give the applicant notice of the removal of the application from the LHA's waiting list for that program and the right to request review pursuant to 760 CMR 5.13.

(b) An applicant who fails to accept three unit offers as set out in 760 CMR 5.10(4)(a) within a five-year period shall be removed from the waiting lists for all programs at all LHAs in the Statewide Online Application System for which the applicant applied, and any new application filed by the applicant for those programs at those LHAs will not be entitled to any priority or preference received based on information provided in prior applications for a period of three years. The LHA that made the third offer shall give the applicant notice of the removal and the right to request review pursuant to 760 CMR 5.13. An LHA conducting a review after a third failure to accept an offer may not consider the circumstances of the application's removal for failure to accept the first and second offers made, unless the applicant can clearly demonstrate a compelling reason for not requesting a timely review of the prior removals.

(c) An applicant offered an AHVP voucher shall make a diligent search to locate an apartment within the time specified in 760 CMR 53.00: Alternative Housing Voucher Program. An applicant who is unsuccessful in locating a unit within such time shall lose the voucher, and the LHA shall remove the applicant from the AHVP waiting list. When an applicant is on the waiting list for elderly/handicapped housing and becomes an AHVP participant the LHA shall drop the applicant to the bottom of that waiting list.

#### **(a) Applicant Acceptance of Housing Offer**

Once an Offer of housing is communicated in writing, the Applicant or Resident has seven (7) business days to accept or it will be considered rejected, unless extenuating circumstances can be established for failure to respond.

An Applicant must 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.

If 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 lease enforcement or rent charges as approved by HUD and/or EOHLC.

#### **(b) Rejecting an Offer of Federal Housing**

The BHA will remove an Applicant from all federal Public Housing Waiting lists if they reject an offer of Federal Public Housing. Furthermore, the Applicant will only be eligible to re-apply after two (2) years from the date of the most recent unit rejection. This is different than the policy for State Public housing as detailed above.

#### **(c) Rejecting of Offer of Housing as a Special Circumstances Transfer Applicant**

A Transfer Applicant is offered one housing unit of the appropriate size and type. Failure to accept the housing offer will result in the denial of the transfer Application and the resident may not re-apply for the same transfer type and Priority and Preference for a period of two (2) years from the date the housing offer was rejected.

#### **(d) Change in Circumstances After Rejection**

The BHA will allow an Applicant who rejects an offer of housing to re-apply as prior to the expiration of the two (2) year period if the Applicant experiences a change in circumstance that justify a different Priority/Preference(s) or Transfer type. 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.

#### **(e) Rejecting an Offer of Housing as an Over or Under Housed Applicant**

Under or Over Housed transfer applicants who reject an offer of housing will be subject to legal action(s).

#### **(f) Rejecting an Offer of Housing Without Penalty**

An Applicant or transfer applicant may reject an offer of an apartment without being removed from the waiting list only in the following circumstances

(i) apartment cannot be restored to move in condition within thirty (30) calendar days of the date of offer as verified by the manager

(ii) After successfully completing the final screening process, the Applicant's situation changed such that a new, different or additional Good Cause consideration has arisen and the Applicant was unable to notify the BHA of the change due to extenuating circumstances, i.e. documented hospitalization, or;

(iii) The transfer applicant's situation has changed after being approved for transfer and the resident was unable to notify the local management office or Admissions Department of the change due to extenuating circumstances, i.e. hospitalization or;

(iv) The hardship caused by acceptance of the offered apartment is due to a physical feature that was not included in the apartment characteristics inventory as documented by the applicant. This will be considered as an inappropriate housing offer.

## 6.2.4 Good Cause or Reasonable Accommodation

An applicant for admission or transfer may request special considerations with respect to the features of the unit or building or the location of the development. These requests may be approved as Good Cause or as a Reasonable Accommodation.

### **(a) Request for Good Cause or Reasonable Accommodation**

Below is a description of the BHA's procedure for requesting an assignment or transfer for Good Cause or Reasonable Accommodation:

- (i) The BHA maintains a detailed inventory of physical characteristics for all of its apartments. Apartment characteristics, as well as location, will be used in matching an Applicant or transfer applicant in order to address the Good Cause or Reasonable Accommodation need.
- (ii) The Applicant must indicate to the Admissions Department staff prior to receiving an offer of housing, and a resident seeking transfer must advise staff in their management office at the time of the transfer request, that they require special consideration in identifying a particular type of apartment or placement in a particular area of the city.
- (iii) Changes in Applicant circumstances that occur during the final screening process or after the request for Transfer shall be considered.
- (iv) Good Cause or Reasonable Accommodation must be supported 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;
- (v) 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, they will be approved for an assignment for Good Cause or Reasonable Accommodation.

### **(b) Example reasons and supporting documentation**

Example reasons and supporting documentation that could be considered Good Cause or related to a request for Reasonable Accommodation are listed below:

- (i) The aggravation of a serious, determinable physical or mental impairment

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.

(ii) Inaccessibility to supportive facilities or programs for elderly, handicapped, or disabled Household members.

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.

(iii) Participation in a Witness Protection program

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.

(iv) Domestic Violence/Dating Violence/sexual assault/or Stalking

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 their 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

(v) Inaccessibility of Nighttime Transportation

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.

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.

(v) Other Reasons

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).

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.

## CHAPTER 7: TRANSFERS

### 7.1 Transfer Categories

BHA divides transfer applicants into two separate categories: Administrative and Special Circumstances.

A resident of BHA Public Housing may request a transfer in accordance with the BHA lease.

#### State Public Housing – Transfers

The BHA ACOP waives State regulations with respect to transfers. This waiver will allow BHA to provide a singular transfer process across the BHA public housing portfolio, as residents transfer from state to federal properties and vice versa. Additionally the waiver enables a consistent interpretation of the BHA lease with respect regarding transfer rights and procedures regardless of the program funding source.

Specifically, the BHA ACOP waives the following regulatory provisions with respect to transfers.

1. The BHA policy waives the definition of a Transfer for Administrative Reasons as listed in 760 CMR 5.03 and substitutes with the definition below in Section 7.1.1.
2. The BHA policy waives the definition of a Transfer for Good Cause as listed in 760 CMR 5.03 and substitutes with the definition Special Circumstances Transfer as listed below in Section 7.1.2
3. The BHA will maintain waiting lists for all transfer applicants therefore, the 6<sup>th</sup> Priority as defined in 760 CMR 5.09(f) shall not be applied to applicants in CHAMP.

#### 7.1.1 Administrative Transfer

An Administrative is a Transfer of a household from one unit to another within the BHA at the discretion of the Administrator for a sound administrative reason, including, but not limited to the reasons listed below:

##### (a) *Uninhabitable*

The current apartment has become uninhabitable and immediate relocation is required as a result of the following:

- (i) Destruction by fire or other disaster; or

(ii) 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.

#### **(b) Capital Improvement**

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.)

#### **(c) Adaptive Features Required by Another Resident**

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.

#### **(d) Temporary Relocation for Repairs**

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.

#### **(e) Over-Under Housed Families**

The BHA shall process over and under housed families as Administrative Transfers.

BHA may initiate an Administrative Transfers to bring residents into compliance with the BHA Occupancy Standards. On a regular basis, management will address over under transfer by reviewing the portfolio site by site and establishing a right sizing plan for review by the Administrator. Residents will be informed in writing that a transfer is necessary and pending. Residents who fail to transfer will be subject to eviction,

Generally, the BHA will attempt to resolve over and under housed families by relocating the most over and under housed families as a priority

Residents who are under-housed at sites where the correct unit size required does not exist shall be allowed to select other developments.

An elderly resident who is over housed by only one bedroom at a site that does not have the lower bedroom size necessary to accommodate the family will not be required to relocate to another site. See also Section 7.9 below.

#### **(f) Domestic Violence**

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 Admissions or such other person as may be designated by the BHA Administrator.

The BHA shall attempt to relocate a household facing domestic violence using a tenant-based voucher and the project based programs in accordance with the Housing Choice Voucher program administrative plan. If the Applicant selects accepts a housing choice voucher or project based voucher, the Applicant is removed from all Public Housing transfer waiting lists. Any approved Domestic Violence transfer shall receive Housing Search Assistance.

BHA shall review data on an annual basis to establish the number of Domestic Violence Transfers as a way to plan for the coming year and set aside units.

#### **(g) Medical Condition**

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

#### **(h) Imminent Danger**

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>5</sup>; or

#### **(i) Witness Protection**

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.

#### **(j) Rent Burdened due to Proration**

The Household is rent burdened due to one or more family members with lack of eligible immigration status and could benefit from a transfer to State aided Public Housing.

### **7.1.2 Special Circumstances**

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<sup>5</sup> Transfers in this category is processed pursuant to BHA's Civil Rights Protection Plan ("CRPP").

Special Circumstances Transfers are transfers necessary to the health and/or safety of one or more Household members.

The following are categories for Special Circumstances Transfers:

**(a) Reasonable Accommodation**

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.

**(b) Designated Housing Transfer**

(i) 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.

(ii) 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 Transfer Process**

### **7.2.1 Resident Initiated Transfer**

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).

### **7.2.2 BHA Initiated Transfer**

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 a minor child to the Household at the future date specified by an Applicant during the final application process.

### **7.2.3 Transfer Review Process**

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

(a) Must have been in residence for at least one (1) year.

(b) 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:

(i) Current in its rental payments unless it is legally withholding rent pursuant to the provisions of the Lease or applicable law.

(ii) 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>6</sup>. If the resident is a party to or under a Use and Occupancy Agreement, they 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.

### 7.3 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, they 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.

### 7.4 Verification of Reason for Transfer

(a) Residents will be asked to provide reliable documentation to verify and support the reasons for a Resident-Initiated transfer at the time the transfer is requested. Documentation may include, but not be limited to:

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<sup>6</sup> The Administrator or their 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).

- (i) Letters from Qualified Healthcare Provider describing the need for a transfer as related to disability or other medical issues,
- (ii) Police reports,
- (iii) Civil Rights incident reports.
- (iv) Restraining orders,
- (v) Information on maintenance conditions,
- (vi) 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
- (vii) 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**

Non-Administrative Transfers shall be placed on site-based Waiting Lists by bedroom size and unit type. Special Circumstances transfers will consider Priority and Preference Points as well as date and time of application.

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

Transfer Applicants shall be Offered and Assigned units in accordance with the Offers and Assignments Chapter.

## **7.8 Transfer 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 thirty (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 to remain in their 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**

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 Rejection of Approved Transfer by Resident**

### **7.11.1 Special Circumstances and Administrative Transfers**

Under the terms of the BHA *lease*, BHA is authorized to transfer Resident to an appropriate size apartment if Resident's current apartment is needed by the BHA as a reasonable accommodation for another BHA resident who is a qualified individual with a handicap.

Additionally, BHA is authorized to transfer Resident to another apartment if BHA determines that a transfer is necessary to protect Resident's health or safety, or if BHA determines to close Resident's building or Apartment.

A Resident who refuses to move under the above circumstances shall be subject to enforcement under the lease.

The rejection of transfers related to redevelopment are covered under BHA's Residential Relocation & Rehousing Policy.

For all other transfer requests the rejection of an offer without good cause or an approved reasonable accommodation of an Apartment of appropriate size and design

will result in revocation of the resident's approved Special Circumstances or Administrative Transfer status. The Resident will be removed from the transfer waiting list and the resident will not be eligible to apply for an Special Circumstances or Administrative Transfer for the same circumstances for a period of two (2) years from the date of the most recent rejection. During the two (2) year period, the BHA will consider a change in circumstances, good cause, or other reasonable accommodation that merit a new request for transfer.

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.

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

In the case of On-Site Under or Over Housed Transfers, BHA shall proceed with eviction against an Over or Under-housed resident who has rejected an offer of transfer without good cause.

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 a regular, non-transfer Applicant. Priorities and Preferences shall apply accordingly.

## 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

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

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 their occupancy unless they 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

OR

(B) The adult is a temporary or permanent guardian seeking to assume responsibility of the unit and household, on behalf of minor children who were tenants of record at the time of the Head of Household or Co-Head's departure due to death, or incapacity.

OR

(C) An adult, who is willing to assume responsibility for the apartment and enter into a lease, with temporary or permanent guardianship of an incapacitated adult Household member, who is unable to fulfill the responsibilities in the lease.

OR

(D) A SPAR Applicant, with an application date prior to the date of the Head of Household or Co-Head's death or incapacitation, who satisfies all of the requirements of Chapter 9.1.3., and who verifies that they did not reside in the BHA unit for the twelve-month period prior to the SPAR application date.

OR

State Program Only: A PCA If a full-time, live-in PCA's income was not included in gross household income for purposes of rent determination while the PCA is serving as a PCA, then the PCA is eligible to be considered a remaining member of the Family (Household)

if the Household Member with a disability to whom the PCA was providing services ceases to occupy the unit if, going forward, the individual's income will be included in gross household income for purposes of rent determination and all other criteria for remaining are met.

AND

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.

## **8.2 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.

## **8.3 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.

## **8.4 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.

## **8.5 Limitations of Policy**

### **Federal Program**

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 verified victims of domestic violence by the former Lease Holder(s).

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.

#### **State Program**

(e) In the event the Tenant ceases to occupy the unit, provided that the tenancy has not been terminated and is not in the process of being terminated and there is no pending eviction action and provided that the conditions set out in the definition of Family (Household) in 760 CMR 5.03: Definitions have been met, a Household comprising of the remaining Household Members shall be given permission for continued occupancy. Any rent due or past due on the date when the Tenant ceases to occupy the unit shall become the obligation of the new Tenant in such Household

### **8.6 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. The applicant's appeal rights shall include a hearing before the BHA Grievance Hearing Panel. An Applicant who meets Residual Tenancy eligibility requirements but does not meet the eligibility requirements for BHA housing programs for another reason, the applicant's right to appeal shall be an informal review/hearing before a BHA hearing officer.

## CHAPTER 9: OTHER OCCUPANCY PROVISIONS

### 9.1 Lease Provisions

#### 9.1.1 Leasing of Apartments\_

##### Federal Programs

- (a) It is BHA's policy that all apartments must be occupied pursuant to a lease that complies with HUD & regulations as well as state and local law.
- (b) 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 occupancy.
- (c) All members of a Household shall be listed on the lease.
- (d) 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.
- (e) 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:
  - (i) A new lease agreement will be executed, OR
  - (ii) A Notice of Rent Change will be sent to the resident, OR
  - (iii) An appropriate lease addendum shall be executed by the BHA and the Household and incorporated into the existing lease.

Only those persons listed on the most recent lease or approved recertification shall be permitted to occupy an apartment on a continuing basis.

##### State Program

In state-aided housing, BHA will use the lease issued by EOHLC or will use a lease approved by EOHLC with the requirements outlined in 760CMR 6.06.

#### 9.1.2 Length of Lease

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.

State Developments only: Leases are continuous as described in the lease issued by or approved by EOHLC.

### 9.1.3 Additions to the Lease

#### **(a) Request for Addition**

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.

The addition of a household member shall be made in accordance with the lease and the 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.

#### **(b) Requirement for Good Standing**

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 request and addition, unless the addition is one of the categories in paragraph (c) below that does not require advance approval.

#### **(c) 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, 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 eligibility requirements in this plan.

#### **(d) 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 and it does not create a severe overcrowded condition in accordance to the occupancy standards defined by the Massachusetts State Sanitary Code. Any such person must have the intention to live regularly in the apartment as their 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 BHA in writing that one or more of their natural or adopted minor children will be joining the Household

at some future date following the leasing of the apartment. Admissions 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 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.

### **State Program:**

Before any person not named in the lease may be added as a Household Member (excepting a new born), Tenant and the person involved shall have applied in writing to the LHA for approval of a Household including such person and the LHA shall have screened the person, ten years of age or older, as an applicant and found him or her to be qualified. The enlarged Household shall meet all applicable eligibility requirements for a Household initially applying for housing, except income shall be within the limit for continued occupancy and the leased unit shall be of appropriate unit size for the enlarged Household.

### **(e) Change of Head of Household**

A Family may request to change which Family member is designated the Head of Household if 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.

### **(f) Screening Criteria for Additions**

Any person 14 years or older for the Federal Program, and 10 years or older for the State Program, proposed for residency in a BHA apartment, must meet BHA's eligibility and screening requirements. When a Head of Household requests permission for an addition(s) to the Household, the resident selection criteria shall be used by the Admissions Department to determine whether or not the proposed household member is eligible for admission.

Should the tenant/head of household expire subsequent to the Admissions 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.

### **(g) 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**

### **(a) Removal of Household Member**

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 Admissions Department and securing BHA approval.

- (a) State Program: The Tenant may delete a Household Member named in an existing lease by a new lease or a lease amendment signed by Tenant and the LHA. Any person so deleted shall cease to be a Household Member and shall cease to occupy the unit.

Federal Program: Temporary visitors may occupy the apartment for no more than a total of forty-five calendar days within any twelve-month period.

### **(b) Unauthorized Occupants**

Federal Program: 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) cumulative 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.

Boarders and lodgers shall not be permitted to occupy an apartment, nor shall they be permitted to reside with any Household occupying an apartment.

State Program: The stay of any overnight Guest shall be limited to no more than a total of 21 nights (21 days if the Guest regularly sleeps during the day) during any 12-month period unless the LHA for good cause otherwise consents to a longer period in writing prior to the expiration of 21 nights or such longer period as may have been authorized

## 9.2 Annual Recertifications

### 9.2.1 Annual Recertification Requirement

The BHA shall re-determine Resident rent, apartment size, and continued eligibility for public housing, at least once annually.

### 9.2.2 Responding to BHA Requests for Information

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.

### 9.2.3 Fraud or Misrepresentation

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.

### 9.2.4 Imputed Welfare Income

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 USC §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.

#### 9.2.5 Zero Income Family

When a family reports zero income, the BHA may require the Household to complete a budget or statement of financial responsibility. In the event family and friends are paying bills, or providing regular cash to the household, this is considered income and will be counted.

#### 9.2.6 Effective Date of Rent Share Change

- (a) **Decrease in Income** If a Family reports in writing a change in income within 30 days, a decrease in tenant share shall be effective the month following the verified decrease in income. For example, if a Family reports a decrease in income on March 3 that resulted from a job loss on February 20, the change in tenant share shall be processed effective March 1. (See also 9.3.1)
  - i. If a Family has a decrease in income, the family is required to inform and supply any necessary verification to the BHA within thirty (30) days. Once the required documentation is received, the BHA shall then process an interim certification of income. When a decrease in family income is reported the BHA shall consider any effect that the reduction in income may have on child care or disability assistance expense deductions.
  - ii. If the family fails to report the change income within 30 days, the decrease in tenant share shall be made effective the month following the reported change
  - iii. If the BHA does not receive the necessary information to perform the above actions in the prescribed time frame above the BHA will take no action on the request. [The BHA will not make any retroactive adjustments to the Participant Share under these circumstances.](#)

### 9.2.7 Notice of Rent Share Change

When 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.

### 9.2.8 Choice of Rent Calculation Method

#### **(a) State Developments**

Rent will be determined in accordance with applicable State regulations, the BHA Lease and the BHA Rent Manual.

#### **(b) Federal Developments/AMPs Only**

As part of the annual recertification 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 notified in their rent share notice that they are being automatically defaulted to the lower rent share for the family. This notice will also explain the differences between the two rent shares, educated about the benefits of selecting one method over another, and will advise the family that they may elect the higher rent share by notifying the BHA in writing within 20 days of the rent share notice. (This does not apply to cases where the resident is over-income as described below.)

##### **(i) 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 recertification. 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 recertification 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.

(ii) 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:

- The higher of 10% of Gross Annual Income or 30% of Adjusted Annual Income
- 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
- In the case of mixed families, Prorated Assistance
- A higher rent pursuant to the Over-Income Policy

### 9.3 Interim Recertification

A Family may request in writing an interim determination of **the household's rent** at any time because of a change in the Family's income, Adjusted Income (household deductions), family size, or composition. A Family must report changes in the circumstances described in the section below.

#### State Public Housing – Interim Re-determination of Rent 760 CMR 6.04(5)

(a) Increases.

If in any month the monthly gross household income of a tenant household increases by 10% or more from the amount contained in the most recent notice of rent as (re)determined by the LHA, the tenant shall report any such increase, including any changes in income, exclusions and deductions. The tenant shall report the increase to the LHA by the seventh day of the month following the month in which the increase occurred, provided that if the increase was anticipated in the prior computation of gross household income, the tenant need not report the increase. The LHA shall require verification of such increase in income. If as a result the amount of rent increases, at least 14 days before the effective date of a rent increase, the LHA shall give the tenant a written notice of the re-determined rent. Any such increase in rent shall be made effective on the first day of a month. The notice of re-determined rent shall set out the monthly gross household income and the monthly net household income, on the basis

of which the re-determined monthly rent was calculated. In the event that a tenant shall have failed to report such an increase in income by the seventh day of the month following the increase, in addition to its other remedies, the LHA, upon discovery that increased rent was due, shall make the effective date of the increase in rent retroactive to the first day of the second month following the increase in income.

(b) Decreases.

If, in any month, the monthly gross household income of a tenant household decreases, the tenant may provide the LHA with verified information substantiating the decrease in gross income. Following receipt of such information, the LHA shall re-determine rent. The LHA shall give the tenant written notice of any decrease in rent which shall be effective on the first day of the month following receipt of the information or at such earlier time as the LHA shall find to be warranted in the event that circumstances delayed receipt of verified information. Provided, however, that until the termination of the state of emergency declared by the Governor under Emergency Order: Declaration of a State of Emergency to Respond to COVID-19, the decrease in rent shall be retroactively effective to the first day of the month following the date of the verified decrease in income. The notice shall set out the monthly gross household income and the monthly net household income, on the basis of which the re-determined monthly rent was calculated.

Late Payments of Income. If a Tenant receives any includable income at a date later than the date when the income would have been paid in the normal course (such as payment of past due workers' compensation benefits for lost wages, past due SSI or SSDI benefits, or retroactive salary increases, and if such income has not been included in the determination of Household income), Tenant shall report receipt of the income to the LHA within seven days after receipt. The LHA shall charge a one time retroactive rent charge on account of any part of such income which in the normal course would have been paid at a time when Tenant occupied an LHA unit. A Tenant who receives and timely reports receipt of such income shall pay any such retroactive rent due on account of such income without interest upon receipt of a bill from the LHA. If Tenant shall fail to report such income or shall fail to make such a one time retroactive rent payment within 30 days of receipt of a bill, the LHA may charge interest on the additional rent due for the period beginning 30 days after receipt of the income at a rate of interest in accordance with law and the LHA's rules.

### 9.3.1 Circumstances Requiring an Interim Recertification (Federal Programs)

#### (a) **All Changes in Family Composition**

##### *Family Reporting Requirements:*

A Family is required to inform and supply any necessary verification to the BHA within thirty (30) days of a birth, adoption, or court awarded custody. The BHA must approve

the eligibility for any addition to the Family that does not result from a birth, court-awarded custody, or adoption

A Family must also notify the BHA in **writing** within 30 days of any departure of a Family member due to death, permanent institutionalization, or other reason, and provide the BHA with verification, including, where applicable, the verification of the new address of the departed Family member.

### **(b) Some Increases in Income**

#### **(i) Increase in Family income after reporting a decrease**

The BHA will process an interim certification, if the family receives any increase in earned income after they had reported a decrease in earned income, but prior to the next regular annual recertification,

For example, the BHA will process an interim increase certification for seasonal employees who receive a decrease or loss of wages and prior to their next regular annual recertification receive an increase in earned income when the season begins.

#### **(ii) Receipt of Unearned Income Resulting in 10% Increase**

The BHA shall process an interim certification when the family begins receiving unearned income that increase annual income by ten percent (10%) or greater.

#### **(iii) Increase in Family Income for Family without Income**

The BHA shall process an interim certification of income when a without income receives any increase in earned or unearned income.

If a Family's income is too unstable to project for 12 months or if a Family temporarily has no income (a "zero-income Family") or if a Family has a temporary decrease in income, the BHA may schedule special Recertification with the site management every month, or at least quarterly, until the income stabilizes and/or an Annual Income can be determined.

#### **Family Reporting Requirements:**

If a Family has an increase in income \$200.00 dollars per month or more the family must report the increase in writing to the BHA within thirty (30) days of receiving the increase in income. The BHA shall make a determination as to whether or not an interim certification should be processed for the family. An increase in income is any increase or new source of income which was not being received at the last annual or interim recertification of the Family. If the family fails to report an increase in income, resulting in an increase in the household's rent, the rent shall be increased retroactively in accordance to the BHA's rent policy.

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.

### **(c) Decreases in Family income.**

If a Family has a decrease in income, it must be reported to the BHA within thirty (30) days of the loss or decrease in income. When a decrease in family income is reported the BHA shall consider any effect that the reduction in income may have on child care or disability assistance expense deductions.

Family Reporting Requirements:

If a Family reports in writing a change in income within 30 days, a decrease in tenant share shall be effective the month following the verified decrease in income. For example, if a Family reports a decrease in income on March 3 that resulted from a job loss on February 20, the change in tenant share shall be processed effective March 1.

If the family fails to report the change in income within 30 days, the decrease in tenant share shall be made effective the month following the reported change.

## **9.4 Over-Income**

### **State Public Housing – 760 CMR 5.06: Income Eligibility**

(2) A household occupying a unit in elderly/handicapped housing shall remain eligible for continued occupancy until such time as 30% of its monthly net household income equals or exceeds the fair market rent (FMR) then in effect for the Section 8 Existing/Voucher Program for a unit of appropriate unit size in the area in which the LHA is located.

(3) A household occupying a unit in family housing shall remain eligible for continued occupancy until such time as 32% of its monthly net household income equals or exceeds the fair market rent (FMR) then in effect for the Section 8 Existing/Voucher Program for a unit of appropriate unit size in the area in which the LHA is located. (4) An AHVP participant shall remain eligible for continued occupancy in a unit until such time as the participant's rent share equals or exceeds the contract rent. The participant shall retain their AHVP voucher for 90 days from the date on which the LHA determines that the participant's share equals or exceeds the contract rent. At the end of that period, if the participant's share continues to equal or exceed the contract rent, the household will not be eligible for continued assistance under the AHVP.

## Federal Public Housing

The “over-income limit” will be determined in accordance with 24 CFR 960.507. Families whose income exceeds the over-income limit for 24 consecutive months will have their tenancy terminated.

### Determination of over-income limit

The over-income limit is set by multiplying the Very Low-Income level applicable for the area and the correct family size by a factor of 2.4. HUD will publish the income limits for each family size annually, and the BHA will calculate and post the over-income limits within 60 days following the effective date of the income limits.

### Notifying over-income families

1. If the BHA, during the course of conducting an annual or interim rent redetermination, or at any other time, 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 the BHA will send a written notice to the family of the over-income determination no later than 30 days after the income examination. The notice shall state that the family income exceeds the over-income limit and that by continuing to exceed the over-income limit for a total of 24 consecutive months results in the termination of tenancy. The family may dispute the determination by making a written request for a hearing within 30 days of the notice.
2. The BHA must conduct an income examination 12 months after the initial over-income determination. If the BHA determines that the family’s income still exceeds the over-income limit, the BHA will send a second notice to the family of the over-income determination no later than 30 days after the 12-month income examination. This second notice shall state that the family income has exceeded the over-income limit for 12 consecutive months and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the termination of tenancy. The family may dispute the determination by making a written request for a hearing within 30 days of the notice.
3. The BHA must conduct an income examination 24 months after the initial over-income determination. If the BHA determines that the family’s income has exceeded the over-income limit for 24 consecutive months, the BHA will send a third notice to the family of the over-income determination no later than 30 days after the 24-month over-income examination. The third notice must state that: (i) the family’s income has exceeded the over-income limit for 24 consecutive months and (ii) the BHA shall terminate the family's tenancy within six months of the third notice.

The over-income family will continue to be a public housing program participant until the tenancy is terminated and the BHA shall continue to charge the family's choice of income-based, flat rent, or prorated rent for mixed households during the period before the lease termination.

The 24 months must be consecutive for the tenancy to be terminated. If the BHA determines that the family is no longer over-income prior to the expiration of the 24-month period, the 24-month period is reset. The household will be entitled to a new 24-month grace period if the household income exceeds the over-income limit at another time.

If the family has been over-income for 24 consecutive months, their tenancy will be terminated even if their income subsequently goes below the over-income limit after the 24-month period.

#### Reporting Requirements

In accordance with 24 CFR 960.507(f) requirements, as amended, BHA will report the following data as of the end of the calendar year, i.e., December 31st, to HUD:

1. The total number of over-income families residing in public housing; and
2. The total number of families on waiting lists for admission to the public housing developments/AMPs.

Per the regulations, this information must also be made publicly available.

## 9.5 Use of HUD's Enterprise Income Verification (EIV) System (Federal Only)

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 EIV system is for use in the federal programs only.

### 9.5.1 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.

#### **(a) 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 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 as far back as reliable information will support; and
- Take any other appropriate action as directed by HUD or the BHA's administrative policies.

#### **(b) Requirement to Reimburse for Undercharged Rent**

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.

#### **(c) Correction of Incorrectly Reported Information in EIV**

(i) 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.

**(ii) 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, they 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.

**(iii) Unemployment benefit information** reported in EIV originates from the local SWA. If the tenant disputes this information, they 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.

**(iv) SS and SSI benefit information** reported in EIV originates from the SSA. If the tenant disputes this information, they 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>.

(v) 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.

**(vi) Debts owed to PHAs and termination information** reported in EIV originates from the PHA. If a current or former tenant disputes this information, they 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.

**(vii) 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 their SSN, they 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 they 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

### **(d) 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.

## **9.6 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 their lifetime. There are three categories of individuals who qualify for the earned income disallowance:

#### 9.6.1 Employment After Unemployment

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.

#### 9.6.2 Income Increase After Training

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.

#### 9.6.3 Income Increase After Receiving Welfare

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.

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

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.

#### 9.7.1 Definitions

##### **(a) 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.

##### **(b) 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.

#### 9.7.2 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.

### 9.7.3 Exemptions

The following residents over the age of eighteen are exempt from this requirement:

- (i) Resident household members who are 62 or older;
- (ii) 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.

- (iii) Resident household members who are the primary care giver of a blind or disabled individual as described in paragraph 2;

- (iv) 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.

(v) 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

(vi) 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.

#### 9.7.4 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:

**(a) 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.

**(b) 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.

**(c) Primary caregiver of a disabled or blind person.** A statement from the person being cared for or their guardian affirming that the resident seeking exemption acts as the primary caregiver and the period during which they are expected to continue in that role shall be adequate verification.

**(d) 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.

**(e) Exempt from work activity under state welfare program.** Verification of the exemption should be obtained from the welfare department.

**(f) 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.

#### 9.7.5 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, they 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.

#### 9.7.6 Non-Compliance

If the BHA determines that a non-exempt resident has not complied with the community service/self-sufficiency requirement, BHA staff, or in the case of privately managed properties, site staff 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.

#### 9.7.7 Documentation

BHA staff, or in the case of privately managed properties, site staff must retain documentation of community service participation and/or exemption in the resident's file.

At lease signing for new residents or at annual recertification 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 annrecertification , 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.

#### 9.7.8 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.

#### 9.7.9 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.

#### 9.7.10 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.

## 9.8 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.

#### 9.8.1 Pre-Occupancy Inspections

The BHA and the resident or their 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.

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.

#### 9.8.2 Annual Inspections

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.

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.

BHA will correct deficiencies determined to be the BHA's responsibility.

Where resident action is required, re-inspections will be conducted.

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. The resident may dispute the bill through the BHA grievance procedures.

### 9.8.3 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 their representative may join in such inspection, unless the resident vacates without notice to the BHA.

## 9.9 Lease Termination Procedures

The lease of a BHA resident provides the terms and procedures for termination of the lease.

### 9.9.1 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:

- (a) Name of resident, number and identification of the apartment occupied;
- (b) Date of the 14-Day Notice, 30-Day Notice, or other notice of Intent to Terminate and the
- (c) Notice to Vacate;
- (d) 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;
- (e) Date and method of notifying the resident;
- (f) Summary of any conference held with the resident including date, names of conference participants and conclusion.
- (g) Decisions of any grievance panel hearings.



## **CHAPTER 10: MISCELLANEOUS PROVISIONS**

### **10.1 Deprogramming Apartments**

BHA will seek approval from EOHLC 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**

At its discretion, and if required with HUD and/or EOHLC 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.

Assistance required under such agreements shall include, but is not necessarily limited to, the following services:

- (a) Assistance in evaluating applicants for program participation;
- (b) Checking to see if the residents are paying their rents and other charges and are properly maintaining their units;
- (c) Helping residents to maintain their households, including managing their money;
- (d) Providing specialized supportive services and crisis intervention in order to obtain necessary treatment to avoid eviction action.
- (e) All Applicants and residents who participate in these programs must meet the Threshold Requirements for the program for which they are applying.
- (f) 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**

### 10.3.1 Plan Description

The BHA will allocate units in the Federal 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 Admissions 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 Resident Custodians and Special Assignment Laborers

### 10.4.1 Rules Governing Residency

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:

- (a) Do not have to qualify as a Low Income Household;
- (b) Are not subject to the BHA's resident selection procedures;
- (c) May be charged a reasonable rent or may be provided a BHA apartment rent-free;
- (d) Are not subject to BHA lease and grievance procedures, but have a license agreement for occupancy with the BHA; and
- (e) 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.

#### 10.4.2 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.

### **10.5 Occupancy by Police Officers (Federal Developments/AMPs Only)**

#### 10.5.1 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.

#### 10.5.2 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.

#### 10.5.3 Terms of Tenancy for Police Officers

#### **(a) 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.

#### **(b) 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.

#### **(c) 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.

#### **(d) Lease**

Police Officers shall execute a lease or occupancy agreement with the BHA providing for the terms of occupancy of an apartment.

#### **(e) 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.

#### **(f) Failure to remain employed as a Police Officer will therefore result in a refusal to renew a Police Officer's lease or occupancy agreement.**

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.

#### **10.5.4 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.

### **10.6 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. The Pet Policy is in accordance with HUD or EOHLC requirements.

## **10.7 Policy Waivers**

### **10.7.1 ACOP Waivers**

The Administrator, or their 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. Each decision to waive a provision of the ACOP must be documented in writing. No waiver shall be contrary to federal, state, or local law. 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.

### **10.7.2 Waiver of State Regulation**

The BHA follows the code of Massachusetts regulation, 760 CMR 5.00 and 6.00 in administering state public housing. However, this policy waives certain provisions of state regulation with the purpose of increasing customer service and effective management of BHA programs. Specific waivers contained within this policy have been requested by BHA and authorized by EOHLC. Waiver requests and approvals shall be posted on [www.bostonhousing.org](http://www.bostonhousing.org).

## **10.8 Non-Smoking Policy**

The BHA has incorporated its non-smoking policy into the non-smoking Lease Addendum.

Region 1 – 617-988-5061 email: [smokefree1@bostonhousing.org](mailto:smokefree1@bostonhousing.org)

Region 2 – 617-988-5062 email: [smokefree2@bostonhousing.org](mailto:smokefree2@bostonhousing.org)

Region 3 – 617-988-5063 email: [smokefree3@bostonhousing.org](mailto:smokefree3@bostonhousing.org)

Region 4 – 617-988-5064 email: [smokefree4@bostonhousing.org](mailto:smokefree4@bostonhousing.org)

## **CHAPTER 11: DEFINITIONS**

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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.                                                                                                                                                                                                                                                        |
| 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. |
| 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.                                                                                                                                                                                                                                                                                                                             |
| Administrator                  | The chief executive officer of the Boston Housing Authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 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.                                                                                                                                                                                                                                                                                                                            |
| 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.                                                                                                                                                                                                                                                      |
| 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.                                                                                                                                                                                                                                                                                                                                                                             |

|                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Appeals                                | An Applicant for admission to BHA, who is dissatisfied with a decision regarding their application, may request an appeal before a BHA Hearing Officer. (See 4.1.4).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 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).                                                                                                                                                                                                                           |
| Area Median Income (AMI)               | The median income of the greater Boston area as determined by HUD.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 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 everyday 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.) |
| Boston Resident                        | A person whose last permanent address was within the City of Boston or a person who is a                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

|                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                             | <p>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.</p> |
| CHAMP                                                       | CHAMP is the Common Housing Application for Massachusetts Programs, the online application system for State Public Housing.                                                                                                                                                                                                                                                                                                                                                                                    |
| 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.                                                                                                                                                                   |
| Earned Income                                               | Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in kind benefits.                                                                                                     |
| Executive Office of Housing and Livable Communities (EOHLC) | The agency responsible for the oversight and monitoring of the State's public housing program.                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 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.                                                                                                                                                                                                                                                                                                           |
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Disabled Person (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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Disabled Person (For Eligibility in Federally-Assisted Housing) | <p>– A person who</p> <p>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 they have previously engaged with some regularity and over a substantial period of time, or</p> <p>2) Has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration, which substantially their 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</p> |

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

A. 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.

B. No individual shall be considered a person with a disability solely because of drug or alcohol dependence.

Elderly Household

A Household whose Head of Household, Co-Head of Household, or spouse (or sole member) is an Elderly Person.

Elderly Person

A person who is at least 62 years of age. For state assisted housing a person who is at least 60 years of age.

Eligible

A person or household that has met the three threshold requirements pursuant to Section 5.1.2 for Preliminary Eligibility.

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.

## Eligible Non-Citizen Status

(For Federal Program only) - The admittance of a Non-Citizen to the United States under one of the following categories:

- 1) 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;
- 2) 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 their 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];
- 3) 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);
- 4) 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));
- 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));
- 6) A Non-Citizen lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act [8 USCS § 1255a].

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|                   | 7) Lawfully admitted for temporary or permanent residence (amnesty granted under Immigration and Naturalization Act Section 245A).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 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.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Family            | <p>Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:</p> <p>(1) A single person<sup>7</sup>, who may be:</p> <p>(i) An elderly person, displaced person, disabled person, near-elderly person, or any other single person;</p> <p>(ii) An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or</p> <p>(2) A group of persons residing together, and such group includes, but is not limited to:</p> <p>(i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);</p> <p>(ii) An elderly family;</p> |

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<sup>7</sup> Single persons include: a single man/woman; 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 this policy.

- (iii) A near-elderly family;
- (iv) A disabled family;
- (v) A displaced family; and
- (vi) The remaining member of a resident family.<sup>8</sup>

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| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Full-time Student          | <p>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.</p> <p>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.</p> |
| 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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<sup>8</sup> Live in Aides do not have rights of tenancy, nor can they be considered the remaining member of a resident household unless they are found to be a licensed Live in Aide and select one of the options in Chapter 5, Section 5.4.2(g), see also 24 C.F.R 5.403

cannot result in discrimination on the basis of race, color, sex, sexual orientation, gender identity, ethnicity, religion or national origin or handicap or disability.

#### Good Standing

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 and 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

#### 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.

#### Head of Household

The member who assumes responsibility and accountability for the Household and signs the lease.

#### Health and Medical Expenses

Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long term care premiums that are paid or anticipated during the period for which annual income is computed.

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| 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.                                                                                                                                                                              |
| 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.                                                                                                                                                                                |
| Home Visit                                           | A visit by BHA Admissions Department staff or contractor to the home of an Applicant pursuant to the provisions of this policy.                                                                                                                                                                                                                                                                 |
| 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.                                                                                                                                                                                                    |
| 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.                                                                                                                                            |
| 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. |
| Lease                                                | A written agreement between the BHA and Head or Co-Head of Household for the occupancy of an apartment.                                                                                                                                                                                                                                                                                         |
| Minor                                                | A member of the family, other than the head or spouse who is under 18 years of age.                                                                                                                                                                                                                                                                                                             |
| 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                                                                                                                                                                                                    |

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|                               | screening process about an Applicant or Transfer Applicant.                                                                                                                                                                                                                                                                                                                                                            |
| Mixed Family                  | A family whose members include those with citizenship or Eligible Non-Citizen Status, and those without citizenship or Eligible Non-Citizen Status.                                                                                                                                                                                                                                                                    |
| National                      | A person who owes permanent allegiance to the United States, for example, because of birth in a United States territory or possession.                                                                                                                                                                                                                                                                                 |
| Near-Elderly Family           | Near-elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more Live-in aides.                              |
| Non-Citizen                   | A person who is neither a citizen nor National of the United States.                                                                                                                                                                                                                                                                                                                                                   |
| Admissions 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 Admissions Department administers the Admissions and Continued Occupancy Policy including eligibility for resident transfers. |
| Overcrowded                   | See Under-housed.                                                                                                                                                                                                                                                                                                                                                                                                      |
| Over-housed                   | A condition of occupancy where too few people reside in an apartment according to BHA standards for occupancy.                                                                                                                                                                                                                                                                                                         |
| 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)                                                                                                                                                                                                                           |
| 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.

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.

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.

Qualified

An Applicant who is Eligible and has been approved for admission to BHA housing after meeting all requirements of the BHA Screening Policy.

Qualified Healthcare Provider

A medical or rehabilitation professional or expert, OR non-medical service agency whose function is to provide services to the disabled.

Rapid Re-Housing Assistance

The provision of housing relocation and stabilization services and short and/or medium term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing

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 person's 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

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|                            | administrative burden, or result in a fundamental alteration of BHA program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Reasonable 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.                                                                                                                                                                                                                                                                              |
| Recertification            | The process and documentation required to redetermine the family's eligibility.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Resident                   | A Family that has been admitted to the housing authority's program and is currently assisted in the program. A Resident will also include those persons, which the BHA has an obligation to offer Continued Assistance. The Family becomes a Resident on the effective date of the first day of initial Lease.                                                                                                                                                                                                                                                                               |
| Resident in Good Standing  | A Resident who has not violated any terms of their lease in the prior year is a Resident in good standing. If a Resident has violated the term of their lease but the violation has been resolved by agreement between the Resident and the BHA or another PHA, and, if applicable, the Resident has honored the terms of the agreement for the prior year, then the Resident is in good standing. If a determination is pending, the Resident will be considered "in good standing" pending the final decision or resolution of any pending proposed violation of the term of their lease.. |
| Residual Tenancy Applicant | An existing Household Member (Federal Program: Except a Personal Care Attendant or Live-in Aide; State Program a PCA may qualify as outlined under 760CMR),, 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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| Residual Tenant                 | A remaining Household Member, (Federal Program: Except a Personal Care Attendant or Live-in Aide; State Program a PCA may qualify as outlined under 760CMR), 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.                                                                                                                                                                  |
| Non-Smoking                     | A designation whereby smoking is prohibited inside an apartment or building (including common areas) and within a defined distance of the building.                                                                                                                                                                                                                                                                                                                                              |
| State-Aided Housing             | A low-rent housing development aided or financed by loans and/or annual contributions from EOHLC.                                                                                                                                                                                                                                                                                                                                                                                                |
| Temporary Housing               | (or Temporarily Housed) - A person or family shall be considered temporarily housed if they have 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.                                                                                                                                          |
| 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 |
| Transitional Housing Assistance | As defined by the Department of Housing and Community Development's (DHCD) statutory regulations for the state funded properties.                                                                                                                                                                                                                                                                                                                                                                |
| 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                                                                                                                                                                                                           |

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|                                         | the limits established in the lease for temporary visitors.                                                                                                                                                                                                                              |
| Under-housed                            | A condition of occupancy where too many people reside in an apartment according to BHA standards for occupancy.                                                                                                                                                                          |
| Unearned Income                         | Any annual income, as calculated under §5.609, that is not earned income.                                                                                                                                                                                                                |
| Uniform Federal Accessibility Standards | Standards for the design, construction, and alteration of publicly owned residential structures to ensure that mobility and/or sensory impaired persons will have ready access to and use of such structures.                                                                            |
| Use and Occupancy Agreement             | A temporary 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.                                              |
| 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.                                                                                             |
| Vacancy Action Form                     | Document by which BHA staff report the status of a vacated apartment (see Section 6.2.3 for status categories).                                                                                                                                                                          |
| Vacate Date                             | The date on which a tenant vacates, abandonment proceedings are concluded; or the tenant is evicted.                                                                                                                                                                                     |
| 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. |
| Veterans’ Preference                    | A Preference that is given to Veterans, as defined above, when applying for BHA housing.                                                                                                                                                                                                 |

