

HOTMA Public Housing Over-Income Provisions 30-Day Implementation

5.520 Proration of Assistance	
5.520(d)	<p>(d) Method of prorating assistance for Public Housing covered programs.</p> <p>(1) The PHA must prorate the family's assistance except as provided in § 960.507 of this title, as follows:</p>
5.628 Total Tenant Payment	
5.628(a)	<p>a) <i>Determining total tenant payment (TTP)</i>. Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:</p> <p>(1) 30 percent of the family's monthly adjusted income;</p> <p>(2) 10 percent of the family's monthly income;</p> <p>(3) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated; or</p> <p>(4) The minimum rent, as determined in accordance with 5.630- or;</p> <p>(b) Determining TTP if family's welfare assistance is ratably reduced. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under paragraph (a)(3) of this section is the amount resulting from one application of the percentage</p> <p>(5) For public housing only, the alternative non-public housing rent, as determined in accordance with § 960.102 of this title.</p>
960.102 Definitions	
960.102(b)	<p><i>Alternative non-public housing rent.</i> A monthly rent equal to the greater of— (i) The applicable fair market rent, as defined in 24 CFR part 888, subpart A, for the unit; or (ii) The amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.</p> <p>(A) For the Public Housing Capital Fund, the amount of Capital Funds provided to the unit will be calculated as the per unit Capital Fund assistance provided to a PHA for the development in which the family resides for the most recent funding year for which Capital Funds have been allocated;</p> <p>(B) For the Public Housing Operating Fund, the amount of Operating Funds provided to the unit will be calculated as the per unit amount provided to the public housing project where the unit is located for the most recent funding year for which a final funding obligation determination has been made;</p> <p>(C) HUD will publish such funding amounts no later than December 31 each year.</p> <p><i>Covered person.</i> For purposes of this part, covered person means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.</p> <p><i>Non-public housing over-income family.</i> A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent. See subpart E of this part.</p> <p><i>Over-income family.</i> A family whose income exceeds the over-income limit. See subpart E of this part.</p>

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	<i>Over-income limit.</i> The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in § 5.603(b) of this title, by a factor of 2.4. See § 960.507(b).
960.206 Waiting List: Local preferences in admission to public housing programs	
960.206(b) Note: Added a new preference	(b)(1) <i>Residency requirements and preferences...</i> (b)(2) <i>Preference for working families...</i> (b)(3) <i>Preference for person with disabilities...</i> (b)(4) <i>VAWA preference...</i> (b)(5) <i>Singles preference...</i> (b)(6) <i>Preference for non-public housing over-income families.</i> The PHA may adopt a preference for admission of non-public housing over-income families paying the alternative nonpublic housing rent and are on a non-public housing over-income NPHOI lease who become an income-eligible low-income family as defined in § 5.603(b) of this title and are eligible for admission to the public housing program.
960.253 Choice of rent	
960.253(a)(3) and (f)(1)	(a) (1) <i>Annual choice by family...</i> (a)(2) <i>Relation to minimum rent...</i> (a)(3) <i>Relation to non-public housing over-income families.</i> Non-public housing over-income families must pay the alternative non-public housing rent, as applicable, as determined in accordance with § 960.102. (f) <i>Choice between flat and income-based rents</i> (1) For a family that chooses the flat rent option, the PHA must conduct a reexamination of family income and composition at least once every three years, except for families a PHA determines exceed the over-income limit described in § 960.507(b). Once a PHA determines that a family has an income exceeding the over-income limit, the PHA must follow the income examination and notification requirements under § 960.507(c).
960.257 Family income and composition: Annual and interim reexaminations	
960.257(a)(5) and (d)	(a) <i>When a PHA is required to conduct a reexamination</i> (1) – (4) unchanged (5) For all non-public housing over-income families, the PHA may not conduct an annual reexamination of family income (d) <i>PHA reexamination policies.</i> The PHA must adopt admission and continued occupancy policies concerning conduct of annual and interim reexaminations in accordance with this section, and shall conduct reexaminations in accordance with such policies. The PHA reexamination policies must be in accordance with the PHA plan.
960.507 Families exceeding the income limit	
Add 960.507	(a) <i>In general.</i> Families participating in the public housing program must not have incomes that exceed the over-income limit, as determined by paragraph (b) of this section, for more than 24 consecutive months. (1) This provision applies to all families in the public housing program, including FSS families and all families receiving EID. (i) Mixed families (as defined in § 5.504 of this title) who are non-public housing over-income families pay the alternative non-public housing rent (as defined in § 960.102), as applicable. (ii) All non-public housing over-income families are precluded from participating in a public housing resident council.

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	<p>(iii) Furthermore, non-public housing over-income families cannot participate in programs that are only for public housing or low-income families.</p> <p>(iv) PHAs cannot provide any Federal assistance, including a utility allowance, to nonpublic housing over-income families.</p> <p>(2) PHAs must implement the requirements of this section by amending all applicable admission and continued occupancy policies according to the provisions in 24 CFR part 903. All PHAs must have effective over-income policies, consistent with the requirements of this section, no later than [INSERT DATE 120 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].</p> <p>(b) <i>Determination of over-income limit.</i> The over-income limit is determined by multiplying the applicable income limit for a very low-income family as defined in § 5.603(b) of this title, by a factor of 2.4.</p> <p>(c) <i>Notifying over-income families.</i></p> <p>(1) If the PHA determines the family has exceeded the over-income limit pursuant to an income examination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families in accordance with paragraph (d) of this section. Pursuant to 24 CFR part 966, subpart B, the PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.</p> <p>(2) The PHA must conduct an income examination 12 months after the initial over-income determination described in paragraph (c)(1) of this section, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. If the PHA determines the family has exceeded the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination that led to the 12-month over-income determination. The notice must state that the family 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 PHA following its continued occupancy policy for over-income families in accordance with paragraph (d) of this section. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. Pursuant to 24 CFR part 966, subpart B, the PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.</p> <p>(3) The PHA must conduct an income examination 24 months after the initial over income determination described in paragraph (c)(1) of this section, unless the PHA determined the family's income fell below the over-income limit since the second over-income determination. If the PHA determines the family has exceeded the over-income limit for 24 consecutive months, then the PHA must provide written notification of this 24-month over income determination no later than 30 days after the income examination that led to the 24- month over-income determination. The notice must state:</p> <p>(i) That the family has exceeded the over-income limit for 24 consecutive months.</p>
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	<p>(ii) That the PHA must either terminate the family’s tenancy or charge the family the alternative non-public housing rent, in accordance with its continued occupancy policy for over income families in accordance with paragraph (d) of this section.</p> <p>(A) If the PHA determines that under its policy the family’s tenancy must be terminated in accordance with paragraph (d)(2) of this section, then the notice must inform the family of this determination and state the period of time before tenancy termination.</p> <p>(B) If the PHA determines that under its policy the family must be charged the alternative non-public housing rent in accordance with paragraph (d)(1) of this section, then the notice must inform the family of this determination and state that the family be charged the alternative nonpublic housing rent in accordance with paragraph (d)(1) of this section. The PHA must also present the family with a new lease, in accordance with the requirements at § 960.509, and inform the family that the lease must be executed no later than 60 days of the date of the notice or at the next lease renewal, whichever is sooner.</p> <p>(iii) Pursuant to 24 CFR part 966, subpart B, the PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA’s determination that the family has exceeded the over-income limit.</p> <p>(4) If, at any time during the consecutive 24-month period following the initial over income determination described in paragraph (c)(1) of this section, a PHA determines that the family’s income is below the over-income limit, the family is entitled to a new 24 consecutive month period of being over-income and new notices under paragraphs (c)(1), (c)(2), and (c)(3) of this section if the PHA later determines that the family income exceeds the over-income limit.</p> <p>(d) <i>End of the 24 consecutive month grace period.</i> Once a family has exceeded the over income limit for 24 consecutive months, the PHA must, as detailed in its admissions and continued occupancy policies—</p> <p>(1) Require the family to execute a new lease consistent with § 960.509 and charge the family the alternative non-public housing rent, as defined in § 960.102, no later than 60-days 284 after the notice is provided pursuant to paragraph (c)(3) of this section or at the next lease renewal, whichever is sooner; or</p> <p>(2) Terminate the tenancy of the family no more than 6 months after the notification under paragraph (c)(3) of this section as determined by the PHA’s continued occupancy policy. PHAs must continue to charge these families the family’s choice of income-based, flat rent, or prorated rent for mixed families during the period before termination. The PHA must give appropriate notice of lease tenancy termination (notice to vacate) in accordance with State and local laws.</p> <p>(e) <i>Status of families.</i> An over-income family will continue to be a public housing program participant until their tenancy is terminated by the PHA in accordance with paragraph (d)(2) of this section or the family executes a new non-public housing lease in accordance with paragraph (d)(1) of this section.</p> <p>(f) <i>Reporting.</i> Each PHA must submit a report annually to HUD that specifies, as of the end of the year, the number of families residing in public housing with incomes exceeding the over-income limit and the number of families on the waiting lists for admission to public housing projects and provide any other information regarding over-income families requested by HUD. These reports must also be publicly available.</p>
960.509 Lease requirements for non-public housing over-income families	

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<p>960.509 While the entire reg is new, the highlight shows what's different from the standard PH lease provisions.</p>	<p>(a) <i>In general.</i> If a family, when permitted by written PHA's continued occupancy policy, elects to remain in a public housing unit paying the alternative non-public housing rent, the PHA and each non-public housing over-income (NPHOI) family (referred to as the "tenant" in this section) must enter into a lease. The tenant and the PHA must execute the lease, as presented by 285 the PHA pursuant to § 960.507(c)(3)(ii)(B) no later than 60 days after the notice provided pursuant to § 960.507(c)(3) or at the next lease renewal, whichever is sooner. If the tenant does not execute the lease within this time period, the PHA must terminate the tenancy of the tenant no more than 6 months after the notification under § 960.507(c)(3) in accordance with 960.507(d)(2). Notwithstanding, a PHA may permit, in accordance with its policies, an over income family to execute the lease beyond this time period, but before termination of the tenancy, if the over-income family pays the PHA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the lease.</p> <p>(b) <i>Lease provisions.</i> The non-public housing over-income lease must contain at a minimum the following provisions.</p> <p>(1) <i>Parties, dwelling unit, and term.</i> The lease must state:</p> <ul style="list-style-type: none"> (i) The name of the PHA and names of the tenants. (ii) The unit rented (address, apartment number, and any other information needed to identify the dwelling unit). (iii) The term of the lease (lease term and renewal in accordance with paragraph (b)(2) of this section). (iv) A statement of the utilities, services, and equipment to be supplied by the PHA without additional cost, and the utilities and appliances to be paid for by the tenant. (v) The composition of the household as approved by the PHA (family members, foster children and adults, and any PHA-approved live-in aides). The family must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit. <p>(2) <i>Lease term and renewal.</i></p> <ul style="list-style-type: none"> (i) The lease must have a term as determined by the PHA and included in PHA policy. (ii) At any time, the PHA may terminate the tenancy in accordance with paragraph (b)(11) of this section. <p>(3) <i>Payments due under the lease.</i></p> <ul style="list-style-type: none"> (i) Tenant rent. <ul style="list-style-type: none"> (A) The tenant must pay the amount of the monthly tenant rent determined by the PHA in accordance with § 960.507(e)(1). (B) The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term. The PHA must comply with State or local law in giving the tenant written notice stating any change in the amount of tenant rent. (ii) <i>PHA charges.</i> The lease must provide for charges to the tenant for repair beyond normal wear and tear and for consumption of excess utilities. The lease must state the basis for the determination of such charges (e.g., by a posted schedule of charges for repair, amounts charged for excess utility consumption, etc.). The imposition of charges for consumption of excess utilities is permissible only if such charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances.
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	<p>(iii) <i>Late payment penalties.</i> The lease may provide for penalties for late payment of rent.</p> <p>(iv) <i>When charges are due.</i> The lease must provide that charges assessed under paragraphs (b)(3)(ii) and (b)(3)(iii) of this section are due in accordance with PHA policy.</p> <p>(v) <i>Security deposits.</i> The lease must provide that any previously paid security deposit will be applied to the tenancy upon signing a new lease. The lease must also inform the tenant of the circumstances under which a security deposit will be returned to the tenant or when the tenant will be charged for damage to the unit, consistent with State and local security deposit laws.</p> <p>(4) <i>Tenant's right to use and occupancy.</i> The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, as well as their guests. The term guest is defined in § 5.100 of this title.</p> <p>(5) <i>The PHA's obligations.</i> The PHA's obligations under the lease must include the following:</p> <ul style="list-style-type: none">(i) To maintain the dwelling unit and the project in decent, safe, and sanitary condition.(ii) To comply with requirements of applicable State and local building codes, housing codes, and HUD regulations materially affecting health and safety.(iii) To make necessary repairs to the dwelling unit.(iv) To keep project buildings, facilities, and common areas, not otherwise assigned to the tenant for maintenance and upkeep, in a clean and safe condition.(v) To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities, and appliances, including elevators, supplied, or required to be supplied by the PHA.(vi) To provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of an individual tenant family) for the deposit of ashes, garbage, rubbish, and other waste removed from the dwelling unit by the tenant in accordance with paragraph (b)(6)(vii) of this section.(vii) To supply running water, including an adequate source of potable water, and reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year (according to local custom and usage), except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct utility connection.(viii) To notify the tenant of the specific grounds for any proposed adverse action by the PHA as required by State and local law.(ix) To comply with Federal, State, and local nondiscrimination and fair housing requirements, including Federal accessibility requirements and providing reasonable accommodations for persons with disabilities.(x) To establish necessary and reasonable policies for the benefit and well-being of the housing project and the tenants, post the policies in the project office, and incorporate the regulations by reference in the lease. <p>(6) <i>Tenant's obligations.</i> The lease must, at a minimum and consistent with State and local law, provide that the tenant must:</p> <ul style="list-style-type: none">(i) Not assign the lease or sublease the dwelling unit.(ii) Not provide accommodations for boarders or lodgers.
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	<p>(iii) Use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not use or permit its use for any other purpose.</p> <p>(iv) Abide by necessary and reasonable policies established by the PHA for the benefit and well-being of the housing project and the tenants, which must be posted in the project office and incorporated by reference in the lease.</p> <p>(v) Comply with all applicable State and local building and housing codes materially affecting health and safety.</p> <p>(vi) Keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition.</p> <p>(vii) Dispose of all waste from the dwelling unit in a sanitary and safe manner.</p> <p>(viii) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities, including elevators.</p> <p>(ix) Refrain from, and cause members of the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or housing project.</p> <p>(x) Pay reasonable charges (other than for wear and tear) for the repair of damages to the dwelling unit, or to the housing project (including damages to buildings, facilities, or common areas) caused by the tenant, a member of the household or a guest.</p> <p>(xi) Act, and cause household members and guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe, and sanitary condition.</p> <p>(xii) Assure that no tenant, member of the tenant's household, guest, or any other person under the tenant's control engages in:</p> <p>(A) Criminal activity.</p> <p>(1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.</p> <p>(2) Any drug-related criminal activity on or off the premises; or</p> <p>(B) Civil activity. For non-public housing over-income units that are not within mixed finance projects, any smoking of prohibited tobacco products in the tenant's unit as well as restricted areas, as defined by § 965.653(a) of this chapter, or in other outdoor areas that the PHA has designated as smoke-free.</p> <p>(xii) To assure that no member of the household engages in an abuse or pattern of abuse of alcohol that affects the health, safety, or right to peaceful enjoyment of the premises by other residents.</p> <p>(7) <i>Tenant maintenance.</i> The lease may provide that the tenant must perform seasonal maintenance or other maintenance tasks, where performance of such tasks by tenants of dwellings units of a similar design and construction is customary, as long as such provisions are not for the purpose of evading the obligations of the PHA. In cases where a PHA adopts such lease provisions, the PHA must exempt tenants who are unable to perform such tasks because of age or disability.</p> <p>(8) <i>Defects hazardous to life, health, or safety.</i> The lease must set forth the rights and obligations of the tenant and the PHA if to the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants. The lease must provide that:</p> <p>(i) The tenant must immediately notify project management of the damage.</p> <p>(ii) The PHA must repair the unit within a reasonable time. The PHA must charge the tenant the reasonable cost of the repairs if the damage was caused by the tenant, the tenant's household, or the tenant's guests.</p>
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	<p>(iii) The PHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time, subject to paragraph (b)(5)(ix) of this section; and</p> <p>(iv) The lease must allow for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling if repairs are not made in accordance with paragraph (b)(8)(ii) of this section or alternative accommodations not provided in accordance with paragraph (b)(8)(iii) of this section, except that no abatement of rent may occur if the tenant rejects the alternative accommodation or if the damage was caused by the tenant, tenant's household or guests.</p> <p>(9) <i>Entry of dwelling unit during tenancy.</i> The lease must set forth the circumstances under which the PHA may enter the dwelling unit during the tenant's possession and must include the following requirements:</p> <p>(i) The PHA is, upon reasonable advance notification to the tenant, permitted to enter the dwelling unit during reasonable hours for the purpose of performing routine inspections and maintenance, for making improvement or repairs, or to show the dwelling unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is reasonable advance notification.</p> <p>(ii) The PHA may enter the dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists; and</p> <p>(iii) If the tenant and all adult members of the household are absent from the dwelling unit at the time of entry, the PHA must leave in the dwelling unit a written statement specifying the date, time, and purpose of entry prior to leaving the dwelling unit.</p> <p>(10) <i>Notice procedures.</i> The lease must provide procedures, in accordance with State and local laws, the PHA and tenant must follow when giving notices, which must include:</p> <p>(i) Except as provided in paragraph (b)(9) of this section, notice to a tenant must be provided in a form to allow meaningful access for persons who are limited English proficient and, in a form, to ensure effective communication with individuals with disabilities; and</p> <p>(ii) Notice to the PHA can be in writing, hand delivered, or sent by prepaid first-class mail to PHA address provided in the lease, orally, or submitted electronically through a communications system established by the PHA for that purpose.</p> <p>(11) <i>Termination of tenancy and eviction.</i></p> <p>(i) <i>Procedures.</i> The lease must state the procedures to be followed by the PHA and the tenant to terminate the tenancy.</p> <p>(ii) <i>Grounds for termination of tenancy.</i> The PHA must terminate the tenancy for good cause, which includes, but is not limited to, the following:</p> <p>(A) Criminal activity or alcohol abuse as provided in paragraph (b)(11)(iv) of this section.</p> <p>(B) Failure to accept the PHA's offer of a lease revision to an existing lease: with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect; and with the offer specifying a reasonable time limit within that period for acceptance by the family.</p> <p>(iii) <i>Lease termination notice.</i> The PHA must give notice of lease termination in accordance with State and local laws.</p> <p>(iv) <i>PHA termination of tenancy for criminal activity or alcohol abuse.</i></p> <p>(A) <i>Evicting drug criminals.</i></p>
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	<p>(1) <i>Methamphetamine conviction.</i> The PHA must immediately terminate the tenancy if the PHA determines that any member of the household has been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of Federally assisted housing.</p> <p>(2) <i>Drug crime on or off the premises.</i> The lease must provide that drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control, is grounds for the PHA to terminate tenancy. In addition, the lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or when the PHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.</p> <p>(B) <i>Evicting other criminals.</i></p> <p>(1) <i>Threat to other residents.</i> The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.</p> <p>(2) <i>Fugitive felon or parole violator.</i> The PHA may terminate the tenancy if a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under Federal or State law.</p> <p>(C) <i>Eviction for criminal activity.</i></p> <p>(1) <i>Evidence.</i> The PHA may evict the tenant by judicial action for criminal activity in accordance with this section if the PHA determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.</p> <p>(2) <i>Notice to Post Office.</i> When a PHA evicts an individual or family for criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.</p> <p>(D) <i>Use of criminal record.</i> If the PHA seeks to terminate the tenancy for criminal activity as shown by a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record before a PHA grievance hearing, as applicable, or court trial concerning the termination of tenancy or eviction. The tenant must be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial.</p> <p>(E) <i>Cost of obtaining criminal record.</i> The PHA may not pass along to the tenant the costs of a criminal records check.</p> <p>(F) <i>Evicting alcohol abusers.</i> The PHA must establish standards that allow termination of tenancy if the PHA determines that a household member has:</p> <ol style="list-style-type: none">(1) Engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or(2) Furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.
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	<p>(G) <i>PHA action, generally.</i></p> <p>(1) <i>Consideration of circumstances.</i> In a manner consistent with policies, procedures and practices, the PHA may consider all circumstances relevant to a particular case such as the nature and severity of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity, the extent to which the leaseholder has taken steps to prevent or mitigate the offending action, the amount of time that has passed since the criminal conduct occurred, whether the crime or conviction was related to a disability, and whether the individual has engaged in rehabilitative or community services.</p> <p>(2) <i>Exclusion of culpable household member.</i> The PHA may require a tenant to exclude a household member to continue to reside in the dwelling unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.</p> <p>(3) <i>Consideration of rehabilitation.</i> In determining whether to terminate tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. 13662). For this purpose, the PHA may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.</p> <p>(4) <i>Nondiscrimination limitation.</i> The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of § 5.105 of this title.</p> <p>(12) <i>No automatic lease renewal.</i> Upon expiration of the lease term, the lease shall not automatically renew.</p> <p>(13) <i>Grievance procedures.</i> The lease may include hearing or grievance procedures and may explain when the procedures are available to the family.</p> <p>(14) <i>Provision for modifications.</i> The lease may be modified at any time by written agreement of the tenant and the PHA. The lease must provide that modification of the lease must be evidenced by a written rider or amendment to the lease, executed by both parties, except as permitted under § 966.5 of this chapter, which allows modifications of the lease by posting of policies, rules and regulations.</p> <p>(15) <i>Signature clause.</i> The lease must provide a signature clause attesting that the lease has been executed by the parties.</p>
960.600 Implementation	
960.600	<p>PHAs and residents must comply with the requirements of this subpart beginning with PHA fiscal years that commence on or after October 1, 2000. Unless otherwise provided by § 903.11 of this chapter, Annual Plans submitted for those fiscal years are required to contain information regarding the PHA's compliance with the community service requirement, as described in § 903.7 of this chapter. Non-public housing over-income families are not required to comply with the requirements of this subpart</p>
960.601 Definitions.	
960.601(b)	<p><i>Exempt individual.</i> An adult who:</p> <p>(1) Is 62 years or older;</p>

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	<p>(2)(i) Is a blind or disabled individual, as defined under Section 216(i)(1) or Section 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or</p> <p>(ii) Is a primary caretaker of such individual;</p> <p>(3) Is engaged in work activities;</p> <p>(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program;</p> <p>(5) Is a member of a family receiving assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or 297 under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such a program; or</p> <p>(6) is a member of a non-public housing over-income family.</p>
964.125 Eligibility for resident council membership	
964.125(a)	<p>(a) Any member of a public housing Household, not including members of a non-public housing over-income family as defined in § 960.102 of this chapter, whose name is on the lease of a unit in the public housing development and meets the requirements of the by-laws is eligible to be a member of a resident council. The resident council may establish additional criteria that are non-discriminatory and do not infringe on rights of other residents in the development. Such criteria must be stated in the by-laws or constitution as appropriate</p>
966.4 Lease Requirements	
966.4(a) and (l)	<p>966.4(a)(2)(iii) At any time, the PHA may terminate the tenancy in accordance with 966.4(l).</p> <p>(iii) The lease shall convert to a month-to-month term for families determined to be over-income whose tenancy will be terminated in accordance with § 960.507(d)(2) of this chapter as of the date of the notice provided under § 960.507(c)(3) of this chapter. PHAs must charge these families, who continue to be public housing program participants, the family's choice of income-based, flat rent, or prorated rent for mixed families during the period before termination. (iv) At any time, the PHA may terminate the tenancy in accordance with paragraph (l) of this section.</p> <p>966.4(l) (2) (iii) (ii) Being over the income limit for the program, as provided in 24 CFR 960.507</p>
960.261 Restriction on eviction of families based on income.	
Remove 960.261	<p>(a) PHAs may evict or terminate the tenancies of families who are over income, subject to paragraph (b) of this section.</p> <p>(b) Unless it is required to do so by local law, a PHA may not evict or terminate the tenancy of a family solely because the family is over the income limit for public housing, if the family has a valid contract for participation in an FSS program under 24 part 984. A PHA may not evict a family for being over the income limit for public housing if the family currently receives the earned income disallowance provided by 42 U.S.C. 1437a(d) and 24 CFR 960.255.</p>

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